MEETING OF THE PLANNING COMMISSION
Town Board Room
807 Mountain Avenue
Town of Berthoud, Colorado
Thursday, October 9, 2025, 6:00 p.m.

This is an IN-PERSON meeting at the location and time noted above.

This meeting will be streamed live on YouTube. The live stream is accessible by visiting www.berthoud.org/stream

1. Call Meeting To Order
2. Pledge Of Allegiance
3. Roll Call
4. Approval Of Meeting Minutes

   Documents:

   2025 09 25 MINUTES PC.PDF

5. Public Hearing

   First Reading of Proposed Changes to Chapter 30 of Town of Berthoud Municipal Code, Town of Berthoud Character District Guide and Design Guidelines, and Town of Berthoud Mountain Avenue Corridor Design and Signage Plan.

   Documents:

   00 INFO FORM PC.PDF
   01 ORDINANCE 1363 CHAPTER 30.PDF
   1 GENERAL PROVISIONS FINAL CLEAN.PDF
   2 IMPACT FEES FINAL CLEAN.PDF
   3 ANNEXATION FINAL CLEAN.PDF
   4 ZONING FINAL CLEAN.PDF
   5 SUBDIVISION AND LAND USE CLEAN 2025 09 23.PDF
   6 DESIGN FINAL CLEAN.PDF
   7 SIGNS FINAL CLEAN.PDF
   8 MOUNTAIN AVENUE FINAL CLEAN.PDF
   9 INNOVATION DISTRICT FINAL CLEAN.PDF

10 HISTORIC RESOURCES FINAL CLEAN.PDF
11 FLOOD DRAFT FINAL CLEAN.PDF
12 SHORT TERM RENTALS FINAL CLEAN.PDF
13 NATURAL MEDICINE FINAL CLEAN.PDF
14 MARIJUANA FINAL CLEAN.PDF
15 OIL AND GAS DRAFT 2 FINAL CLEAN.PDF
16 WIRELESS COMMUNICATIONS FACILITIES CODE FINAL.PDF
1 GENERAL PROVISIONS FINAL REDLINE.PDF
2 IMPACT FEES FINAL REDLINE.PDF
3 ANNEXATION FINAL REDLINE.PDF
4 ZONING FINAL REDLINE.PDF
5 SUBDIVISION AND LAND USE FINAL REDLINE.PDF
6 DESIGN FINAL REDLINE.PDF
7 SIGNS FINAL REDLINE.PDF
8 MOUNTAIN OVERLAY FINAL REDLINE.PDF
9 INNOVATION DISTRICT FINAL REDLINE.PDF
10 HISTORIC RESOURCES FINAL REDLINE.PDF
11 FLOOD DRAFT FINAL REDLINE.PDF
12 SHORT TERM RENTALS FINAL REDLINE.PDF
13 NATURAL MEDICINE FINAL REDLINE.PDF
14 MARIJUANA FINAL REDLINE.PDF
15 OIL AND GAS DRAFT 2 FINAL REDLINE.PDF
16 WIRELESS COMMUNICATIONS FACILITIES CODE FINAL REDLINE.PDF
04 ORDINANCE 1364 DESIGN.PDF
05 DESIGN GUIDELINES.PDF
06 ORDINANCE 1365 MOUNTAIN.PDF
07 MOUNTAIN AVENUE OVERLAY DISTRICT GUIDELINES.PDF
08 PUBLIC NOTICE - BERTHOUD - CHAPTER 30.PDF

6. Report By Staff
7. Adjourn

Individuals needing special accommodation may request assistance by contacting the Town Clerk at 807 Mountain Avenue, Berthoud, Colorado 80513, 970-532-2643 at least 24 hours in advance.

Town of Berthoud Planning Commission
Town Hall
Board Room
807 Mountain Avenue, Berthoud, CO 80513
September 25, 2025 at 6:00 p.m.

1. Meeting called to order – Chairperson Anderson at 6:14 p.m.

2. Pledge of Allegiance

3. Roll Call

   The following Planning Commission members were present:
   Karen Anderson, Chair
   Marc Hofmans, Commissioner
   Nick Semedalas, Commissioner
   Bryce Filho, Commissioner
   David Pond, Commissioner
   Stacy Sigman, Commissioner

   The following Planning Commission members were absent:
   Abigail Smith, Vice Chair

   The following staff members were present:
   Anne Johnson, Community Development Director
   Tawn Hillenbrand, Planning Manager
   Bella Manzo, Planner
   Erin Smith, Town Attorney

4. Approval of Minutes from September 11, 2025 were moved for approval by Commissioner Semedalas and a second to the motion was made by Commissioner Sigman.

5. Report by Staff:
   a. The Planning Commission Meeting on October 9 will be a review of proposed changes to Chapter 30 of the Town of Berthoud Municipal Code.
   b. A Public Art program is in the initial stages of planning by Planning Manager Tawn Hillenbrand and Town Planner Bella Manzo, with community outreach tentatively planned for November or December of 2025.
   c. Town Planner Bella Manzo has been participating in Regional Housing Strategy meetings held by the Northern Colorado Foundation to work on regional approaches to housing needs.
   d. A Historic Preservation Plan is in now in progress in cooperation with consultants from Chronicle Heritage. Outreach will occur during the Oktoberfest event on October 4, 2025.
   e. Consultants with Ayres will also be present at Oktoberfest with information and outreach

on the Little Thompson River Corridor.

6. Adjourn
   The meeting was adjourned by Motion of Commissioner Sigman and seconded by Commissioner Pond at 6:20 p.m.

7. Work Session: Planning Commissioner Orientation
   a. A work session consisting of an orientation for the new Planning Commissioner and a Q&A with Town Attorney Erin Smith began at 6:20 p.m. and ended at 8:31 p.m.

_____ _____

Chairperson Secretary

PLANNING COMMISSION INFORMATION

COMMUNITY DEVELOPMENT DEPARTMENT

Meeting Date:	**October 9, 2025**
Agenda Title/Subject:	**Public Hearing to consider Ordinance 1363 (Series 2025) to present a repeal and replacement of Chapter 30 of the Berthoud Municipal Code; Ordinance 1365 (Series 2025) an amendment to the Mountain Avenue Overlay District Guidelines; and Ordinance 1364 (Series 2025) an amendment to the Town's Design Guidelines**
Type of Item:	**Public Hearing**
Purpose:	**A Public Hearing to present proposed amendments to Chapter 30 of the Berthoud Municipal Code, the Mountain Avenue Overlay District Guidelines and the Town's Design Guidelines**
Presented by:	**Anne Johnson, Community Development Director**

ATTACHMENTS:

- Ordinance 1363 (2025): Chapter 30 – Land Use Code
- Attachment A: Clean Version
- Attachment B: Redline Version
- Ordinance 1364 (2025) – Design Guidelines
- Attachment A: Edited Version
- Ordinance 1365 (2025) – Mountain Avenue Overlay Guidelines
- Attachment A: Edited Version
- Public Notice

BACKGROUND

The Land Use Code is amended periodically in part to keep current with trends in land use, to accommodate change in vision established by updates to the Comprehensive Plan, and to clarify intent. The Town of Berthoud has a robust and progressive Land Use Code and requires reorganization, clarification, and amendments to keep current with the vision established in the Comprehensive Plan as well as study sessions held with the Trustees and Development Community in 2025.

The Mountain Avenue Overlay Guidelines, first adopted by Ordinance 1280 in 2020 also requires amendment. The Land Use Code contains portions of these Guidelines and removing the Guidelines from Code will ensure conflicts do not occur over time and that the regulatory Code reflects the most current version of the Guidelines.

The Town adopted a Character District Guide and Design Guidelines 2021 through Resolution 28 (2021) to accompany the then newly-adopted Comprehensive Plan. The Land Use Code contains design-specific references and removing the references from Code will ensure conflicts do not occur through time and that the regulatory Code reflects the most current version of the Guidelines.

By removing opportunities for conflict between Code and Guidelines, direction to the Development community is more accurate and the opportunity for conflict is lessened. The following summary highlights substantive changes to each of the Sections of the Land Use Code and Guidelines presented as a courtesy:

Overall, the following changes occurred:

- Where possible, language, standards and requirements were consolidated, clarified and simplified;
- Punctuation and spelling errors were corrected;
- Tables and Sections are referred to by name rather than by Section to reduce mistakes in referencing Section and Tables that change through time;
- Every land use on the land use table is defined; and
- Electric Vehicle (EV) Charging station language as required by State Statute was added to several Sections of the Chapter including: Design, Zoning, and Land Use.

More specifically, the following changes were made to specific sections of the Land Use Code:

1 General Provisions
    - 30-1-110.A.3: A Comprehensive Plan amendment procedure has been added as the current Code and Comprehensive Plan are silent.
    - 30-1-112: Section was clarified
        - Timing starts for vesting at the act of recording
    - 30-1-113: Section was clarified utilizing Larimer County Code as a base
    - Definition Changes
        - Addition of “Data Center” and then as a USR in M2 only in the Zoning Table
        - All “dwelling” types are grouped together
        - Addition of Electric Vehicle information per Statute
        - “Group Care Facility” consolidates many separate definitions
        - All uses in the Zoning Section land use table were verified to be defined in this section
2 Impact Fees: Clarification to Section 30-2-113
    a. The definition of ADU in this section matches the definition of ADU in the General Provisions section.
    b. Section 30-2-113.G regarding cash-in-lieu was clarified by the Town’s Water Attorney.
3 Annexation:
    - 30-3-103.A.11: Financial Impact Analysis need to determine true cost to provide services has been clarified. While nearly impossible to predict the true impact of annexation, the Town would like to see additional fiscal analysis provided by the applicant.
4 Zoning
    - Design references were removed from the Zoning Section and placed in the Design Section
    - The action of Annexation shall include concurrent zoning vs. allowing a Transitional zone district
    - Dimensional standards and bulk standards tables
        - Removed footnotes

- Include maximum number of units per acre vs. minimum lot sizes inclusive of removing 20% for streets, parks, etc.
- Includes maximum lot coverage
- Clarifies the intent of corner side setbacks

5 Subdivision and Land Use

- Land Uses were in separate Sections of the Code and have been brought together.
- 30-5-101: The Intent Section will now be Criteria for Approval for all applications. These statements were contained in application sections and the overall intent section and will now be utilized as a guide for all applications.
- 30-5-102. F and G: Includes a timeline to eliminate lingering cases.
- 30-5-103 and 30-5-107: Provides flexibility to grant staff the ability to waive application requirements per site-specific findings.
- 30-5-104: Reorganizes a large and complicated table into a simplified table and provides more structured descriptions of the application materials.
  - The Town has developed a guideline for Irrigation Plans and this guideline is referenced.
  - The Town would like to see precedent images for neighborhood identity features.
  - A hydrozone analysis worksheet has been created to be used as a standard form.
- 30-5-105: Reduces confusion by discussing subdivision types in one location vs. introducing the type in one sub-section and then providing details on the type in another section.
- 30-5-105.E and 30-5-105.D.6: Allows for an administrative Final Plat in certain circumstances.
- 30-5-105.E: Clarifies what is required for the vesting of Final Plats
- 30-5-105.E: Clarifies the parameters surrounding early grading releases
- 30-5-108.A: Clarifies the need for a building permit
- 30-5-108.A: Three options for a Site Plan and accountability to assure equitable application of the flexibility.
  - Flexibility for a Site Plan “Light”
  - Housing Needs Assessment outcome: this option would grant developments proposing affordable housing to be processed quickly. Staff has worked with DOLA to ensure the provisions of this process meet Statute as well as provide structure for pre-application requirements.
- 30-5-108 Accessory Uses: Consolidation from all across the Chapter has been made to have all accessory uses located in one Section.
- 30-5-109.B.2.b: Clarify the “hardship” provision
- 30-5-112: Certification Blocks were consolidated

6. Design standards from the zoning section have been relocated to this section.

- 30-6-101.H is introduced to discuss density transitions between residential neighborhoods.
- 30-6-107: Statutory EV Parking requirements have been added.
- 30-6-110: Greater options have been added for park requirements.
- 30-6-115: Greater options have been added and this section regarding residential design diversity has been clarified. The quantity of types has been increased.
- 30-6-119: Outdoor lighting and dark sky standards have been reviewed and edited for compliance with the Town’s desire to attain Dark Sky Certification.
- 30-2-131 Non potable water system section was added by the Town’s Water Attorney.

7. Signs
    - Table 7.3 regarding monument signs was clarified.
8. Mountain Avenue
    - Mountain Avenue Overlay District Guidelines are also being presented for amendment. Duplicative items have been removed from Chapter 30 to remove the opportunity for conflicts.
9. Innovation District
    - Amendments are proposed to be consistent with thresholds in making changes to structures elsewhere in the Land Use Code.
10. Historic Resources
    - 30-10-112: Clarification on the process for alterations was provided.
11. Flood
    - 30-11-103.B: Reference to an updated study was provided by the governing body for Flood Management, the Colorado Water Conservation Board.
12. Short Term Rentals
    - No change is proposed
13. Natural Medicine
    - No change is proposed
14. Marijuana
    - Changes to the term, “business” were added to clarify intent consistent with Statute.
    - Reference to the Subdivision and Land Use Process and Procedures Table is made for clarification
15. Oil and Gas
    - The definition section was amended to clearly state that disposal wells are prohibited.
16. Wireless Communications Facilities
    - 30-16-106.D.8 regarding “tolling” has been changed to allow the Town the opportunity to “toll”. This change has been made to comply with Statutes at the direction of our Town Attorney.

The Town of Berthoud Character District Guide and Design Guidelines are being presented for amendment. Duplicative items have been removed from Chapter 30 to remove the opportunity for conflicts. The Plan is being amended to keep pace with the vision of the Town.

The Town of Berthoud Mountain Avenue Corridor Design and Signage Plan is also being presented for amendment. Duplicative items have been removed from Chapter 30 to remove the opportunity for conflicts. The Plan is being amended to keep pace with the vision of the Town.

UPDATE/NEXT STEPS:
The Planning Commission’s recommendation will be provided to the Town Board of Trustees at their first reading on October 28, 2025 and will be presented at a second reading on November 10, 2025.

FISCAL IMPACT AND FUND SOURCE:
There is no negative fiscal impact to the Town in amending these documents.

COMMUNITY TOUCHSTONES:
Consideration of the amendment request does not negatively impact community touchstones. Consideration of approval of the request does provide support for enhancing community identity, provides support to strengthen the Town's sustainability and resiliency goals and affords the community with a transparent set of standards to know what the expectations are for developing and redeveloping within the Town.

RECOMMENDED ACTION(S):
Staff recommends the Planning Commission approves the proposed changes to Chapter 30, the Mountain Avenue Overlay District Guidelines and the Town's Design Guidelines to the Town Board of Trustees.

SUGGESTED MOTIONS:
For Approval:
I move to forward a recommendation of approval to the Town Board of Trustees of Ordinance 1363 to replace Chapter 30 of the Berthoud Municipal Code; Ordinance 1364 to replace the Town of Berthoud Character District Guide and Design Guidelines; and Ordinance 1365 to replace the Town of Berthoud Mountain Avenue Corridor Design and Signage Plan. This recommendation is based upon the need to have clear guidelines to communicate the Town's standards for development, to eliminate redundancies, to be compliant with Colorado Revised Statutes, and additional rationale found in this staff report.

For Denial:
I move to forward a recommendation of denial to the Town Board of Trustees of Ordinance 1363 to replace Chapter 30 of the Berthoud Municipal Code; Ordinance 1364 to replace the Town of Berthoud Character District Guide and Design Guidelines; and Ordinance 1365 to replace the Town of Berthoud Mountain Avenue Corridor Design and Signage Plan. This recommendation is based upon the following findings: _____.

TOWN OF BERTHOUD ORDINANCE
NUMBER 1363

AN ORDINANCE ADOPTING CHAPTER 30 OF THE BERTHOUD MUNICIPAL CODE.

WHEREAS, the Town of Berthoud is a municipal corporation possessing all powers granted to a statutory town by Title 31 of the Colorado Revised Statutes; and

WHEREAS, the Town wishes to amend sections of the Municipal Code to remain consistent with the intent of the 2021 Comprehensive Plan update, to maintain consistency with State and Federal regulations, and to clarify the intent of application requirements and development standards; and

WHEREAS, the Planning Commission, after proper notice, has held a public hearing on October 9, 2025 on this Ordinance providing for a recommendation of approval from the Town Board of Trustees; and

WHEREAS, the Board of Trustees, after proper notice has held a public hearing on this Ordinance providing for the adoption of said code amendments pursuant to C.R.S. Section 31-16-203; and

WHEREAS, the Development Code and amendments thereto have been submitted to the Board of Trustees in writing and the Board of Trustees has determined that such code and amendments thereto should be adopted in their entirety as Chapter 30 to the Municipal Code as herein set forth;

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN BOARD OF TRUSTEES OF THE TOWN OF BERTHOUD, COLORADO:

Section 1. That the Berthoud Development Code, Chapter 30 of the Municipal Code has been amended in its entirety and replaced as set forth in Exhibit A, attached is hereby adopted;

Section 2. If any section, paragraph, sentence, clause, or phrase of this Ordinance is held to be unconstitutional or invalid for any reason, such decision shall not affect the validity or constitutionality of the remaining portions of this Ordinance.

Section 3. All other Ordinances or portions thereof inconsistent or conflicting with this Ordinance or any portion hereof are hereby repealed to the extent of such inconsistency or conflict.

Section 4. The repeal or modification of any provision of the Municipal Code of the Town of Berthoud by this Ordinance shall not release, extinguish, alter, modify, or change in whole or in part any penalty, forfeiture, or liability, either civil or criminal, which shall have been incurred under such provision, and each provision shall be treated and held as still remaining in force for the purpose of sustaining any and all property actions, suits, proceedings, and prosecutions for the enforcement of the penalty, forfeiture, or liability, as well as for the purpose of sustaining any judgment, decree, or order which can or may be rendered, entered, or made in such actions, suits, proceedings, or prosecutions.

Section 5. The provisions of this ordinance shall take effect thirty days after publication as required by law, and shall apply to all development and construction permitted after such date.

INTRODUCED, READ, AND APPROVED on this 28th day of October, 2025.

TOWN OF BERTHOUD

By _____

William Karspeck, Mayor

ATTEST:

By: _____

Christian Samora, Town Clerk

READ, ADOPTED, AND APPROVED on this 10th day of November, 2025.

TOWN OF BERTHOUD

By _____

William Karspeck, Mayor

ATTEST:

By: _____

Christian Samora, Town Clerk

SECTION 1 GENERAL PROVISIONS

30-1-101 Title

A. This ordinance establishes the regulations and standards governing the use and development of land within the Town of Berthoud. Included are provisions for the annexation, subdivision, zoning, and land use and development of land, as well as the administrative procedures governing the submission of applications, administrative and public reviews, and appeals. Also included are the Town of Berthoud's standards for site and building design, landscaping, signage, dark sky compliance, parking and public infrastructure. This Code applies to development and redevelopment and both terms are used interchangeably.

30-1-102 Short title

A. This ordinance shall be known and may be cited as the Town of Berthoud Development Code. Within this ordinance the Town of Berthoud Development Code shall simply be referred to as "this Code."

30-1-103 Authority

A. This Code is adopted pursuant to the authority contained in the Colorado Revised Statutes (C.R.S.). Local governments are provided broad authority to plan for and regulate the use of land within their jurisdictions, as authorized in Title 29, Article 20, et seq. and Title 31, Article 23, et seq. of the C.R.S., as amended. Additional statutory authority may also exist for specific types of development regulation.

B. Whenever a section of the Colorado Revised Statutes cited in this Code is later amended or superseded, this Code shall be deemed amended to refer to the amended section or section that most nearly corresponds to the superseded section.

30-1-104 Jurisdiction

A. This Code shall be effective throughout the Town of Berthoud's municipal boundaries. The Town of Berthoud's planning jurisdiction includes all land within the Town of Berthoud, and where applicable, the lands within three miles of the Town of Berthoud's boundaries per C.R.S. §31-12-105(e) (I). For purposes of zoning, subdivision, land use and development standards, this Code only applies to lands within the Town of Berthoud's municipal boundaries.

B. A copy of a map showing the boundaries of the Town of Berthoud and the area within the three-mile planning jurisdiction shall be available for public inspection in the Town of Berthoud's offices.

C. Except as specifically provided herein, this Chapter does not create rights in third parties as beneficiaries. It is intended to create an enforceable relationship between only the Town and the property owners or citizens to whom its provisions directly apply.

30-1-105 Premature and Scattered Development

A. Nothing in this Chapter shall be construed to limit the existing authority of the Board of Trustees to provide against development that is scattered or premature, requires an excessive expenditure of public funds, or otherwise violates the Town of Berthoud land use regulations.

30-1-106 Purpose

A. The purpose of this Code is to preserve, protect and improve the health, safety and general welfare of Berthoud residents and to:

1. Provide standards to achieve high-quality physical development and redevelopment.

2. Encourage the most appropriate uses of land in the Town.

3. Achieve the following standards:

    a. Encourage redevelopment and new development to relate to the Town's historic development pattern

    b. Create a vital, cohesive, well-designed community; and

    c. Facilitate efficient provision of transportation, water, waste water treatment, stormwater management, schools, parks and other public requirements;

    d. Incorporate transect development place types and character districts for guiding Berthoud's physical development. (Transect development is a multi-tiered approach to plan for the community at various scales, starting from the Town-wide macro scale down to the block-level micro scale); and

    e. Encourage street, trail, sidewalk, and non-motorized path alignment and arrangement in relation to existing and planned streets, trail, sidewalk and non-motorized paths and ensure that the same result in safe, efficient and pleasant walking, biking and driving experiences; and

    f. Create livable and connected compact developments that are well-defined, sustainable , foster a sense of community, enhance the Town's character and reduce dependency on vehicle traffic; and

    g. Encourage innovative, quality site design, architecture and landscaping.

4. Maintain and enhance property values by stabilizing expectations, fostering predictability in land development, and establishing transparent processes to efficiently and equitably apply this Code to individual sites. This requires balancing economic development with community values.

    a. Provide a certain and consistent development review process with clear development and redevelopment standards.

5. Protect critical environmental resources, including agricultural lands and water, wetlands, riparian areas, view corridors, important wildlife habitats and special places of the Town of Berthoud.

6. Prevent or decrease the danger of life and property from flooding, geologic hazards and wildfire.

30-1-107 Interpretation

A. The provisions of this Code shall be interpreted and applied as the minimum requirements for the promotion of the public health, safety and welfare. Whenever the requirements of this Chapter are at variance with the requirements of any other lawfully adopted rules, regulations or ordinances, the more restrictive, or that imposing the higher standard, shall govern.

30-1-108 Applicability of Code

A. The provisions of the Town of Berthoud Development Code shall apply to any and all development of land within the municipal boundaries of the Town unless expressly and specifically exempted or provided otherwise in this Code. No development shall be undertaken without prior and proper approval or authorization pursuant to the terms of this Code. All development shall comply with the applicable terms, conditions, requirements, standards and procedures established in this Code.

B. Except as herein provided, no building, structure or land shall be used and no building or structure or part thereof shall be excavated, erected, constructed, reconstructed, altered, repaired, moved or structurally altered except in conformance with the regulations herein specified for the zone district in which it is located, nor shall a yard, lot or open space be reduced in dimensions or area to an amount less than the minimum requirements set forth herein.

C. Whenever both the provisions of this Code and provisions of any other law cover the same subject matter, whichever is more restrictive shall govern.

D. This Code establishes procedural and substantive rules for obtaining the necessary approval to develop land and construct buildings and structures. Development applications will be reviewed for consistency with the Town of Berthoud Comprehensive Plan, and other Town of Berthoud master plans, policies and guidelines, and for compliance with adopted regulations.

30-1-109 Relationship to existing ordinances and resolutions

A. All ordinances, resolutions or motions of the Town of Berthoud Board of Trustees or parts thereof in conflict with this Code are, to the extent of such conflict, hereby superseded and repealed, provided that no such repeal shall repeal the repealer clauses of such ordinance, resolution or motion, nor revive any ordinance, resolution or motion thereby. The adoption of this Code shall not adversely affect the Town of Berthoud's right to seek remedies for any violation of previous ordinances that occurred while those ordinances were in effect.

30-1-110 Relationship to Comprehensive Plan

A. It is the intention of the Town of Berthoud that this Code implements the vision and intent of the Comprehensive Plan for the Town and its extraterritorial planning area. The Comprehensive Plan is a visionary document and is not legislative; however, the vision and intent of the Comprehensive Plan should be integrated into the standards, expectations and guidelines provided in the Development Code. While this relationship is reaffirmed, it is the intent of the Town of Berthoud that neither this Code nor any amendment to it may be challenged on the basis of any alleged nonconformity with the Comprehensive Plan.

1. *Requirement for Comprehensive Plan amendment.* Where a development proposal is not in conformance with the Comprehensive Plan, an amendment to the Comprehensive Plan will be required prior to any zoning or subdivision approvals. Conformance exists when a development proposal matches the designations of the Preferred Land Use Plan.

2. *Criteria for evaluating amendment proposals.* Amendments to the Comprehensive Plan resulting from development proposals under this Code shall be evaluated according to the criteria and procedure outlined in the Comprehensive Plan.

3. When the Comprehensive Plan does not provide an amendment procedure, the amendment application submission and procedure shall follow those for a Neighborhood Master Plan, with such additional materials as shall be determined by the Town Administrator or designee.

30-1-111 Enforcement

A. Purpose. This section establishes procedures through which the Town seeks to ensure compliance with the provisions of this Code and obtain corrections for violations of this Code. This section also establishes the remedies and penalties applicable to violations of this Code.

B. Authority. The Town Board, or its designee, shall be responsible for enforcing the provisions of this Chapter. The term "Town Board" in this Section shall mean the Town Board or its designee. Any criminal enforcement shall be by the issuance of a complaint and summons to Municipal Court by a peace officer.

C. *Authorization for inspections*. By annexing into Berthoud, the property owner, successors and assigns give their consent that the Town may enter any building, structure, real property, or premises during ordinary business hours and upon 12 hours verbal or written notice, to ensure compliance with the provisions of this Code as provided in the Berthoud Municipal Code.

D. The Town will not approve the issuance of a building permit unless the plans for the proposed use, development erection, construction, reconstruction, remodel, restoration, improvement, alteration, or change conform to the requirements of this Code.

E. Violations. It shall be unlawful to violate any provision of this Chapter and undertake any of the following activities:

1. Erecting, constructing, reconstructing, remodeling, altering, maintaining, expanding, demolishing, moving or using any building, structure, or sign; or to engage in development or alter or change the use of any real property or the improvements on such property; or to subdivide any land, in contravention of any other regulation of this Code, including terms and conditions of all approvals.

2. Land disturbing activities inconsistent with this Code including excavating, grading, cutting, clearing, bringing in fill materials, or undertaking any other land disturbance activity contrary to the provisions of this Code or without first obtaining all requisite land use approvals required by this Code or other applicable regulations. All land disturbing activities shall be consistent with the Town's stormwater quality requirements.

3. Nonconforming uses or structures inconsistent with Code. Creating, expanding, replacing, or changing a nonconforming use, structure, lot, or sign except in compliance with this Code.

4. Making lots or setbacks nonconforming. Reducing or diminishing the lot area, setbacks, or open space below the minimum required by this Code, except as may otherwise be permitted under the provisions of this Code.

5. Increasing intensity of use. Increasing the intensity of use of any land or structure, except in accordance with the procedural and substantive standards of this Code.

6. Activities inconsistent with permit. Engaging in any development, use, construction, remodeling, or other activity of any nature in any way inconsistent with the terms and conditions of any permit, approval, or other form of authorization required to engage in such activity.

7. Activities inconsistent with conditions of approval. Failure to comply with any terms, conditions, or limitations placed by the Town upon any final development plan, subdivision plat, permit, or other form of approval by the Town.

8. Agreements to convey. Making any agreement to convey or the conveyance of any lot or undivided parcel of land contrary to the provisions of the Chapter or prior to approval of a final plat by the Town. It shall be a separate violation for each lot or parcel of land sold or agreed to be sold.

9. Activities inconsistent with an order of the Town. Failure to comply with any stop work order, abatement order, or any other order issued by the Town pursuant to this Code.

F. Separate violations. Any person who violates or causes the violation of any of the provisions of this Chapter, shall be guilty of a separate offense for each and every day, or portion thereof, during which a violation is committed, permitted, or continues.

G. *Remedies and enforcement powers*. Violations of this Chapter may be enforced in the Berthoud Municipal Court or any other court with jurisdiction, by any appropriate equitable action, by abatement, by issuance of stop work orders, by injunction and/or restraining order, by revoking any permits or approvals issued, and by assessing any amounts due or to cover delinquent costs, fees, penalties and/or taxes. Any one, all or any combination of the foregoing penalties and remedies may be used to enforce this Chapter. In addition, the Town shall have the following civil remedies and powers to enforce this Code:

1. *Notice of violation and corrective action order*.

   a. *Non-emergency violations*. In the case of violations of this Code that do not constitute an emergency or require immediate attention, written notice of the nature of the violation and required corrective action to be taken may be given by the Town to the owner, occupant, applicant for any relevant permit, person in charge of construction or other work on the property, or any other person in possession of or involved in the illegal activity on the property. Notice shall be given in person, by certified U.S. Mail (return receipt requested) or by posting notice on the premises. The notice shall specify the Code provisions allegedly in violation, and shall state that the individual has a period of 30 days from the date of the receipt of the notice in which to correct the alleged violations before further enforcement action shall be taken. Failure to provide notice shall not constitute waiver of the violation by the Town.

   b. *Emergency violations*. In the case of violations of this Code that lead to safety or public concerns, or violations that will create increased problems or costs if not remedied immediately, the Town may use the enforcement powers available under this Code without prior notice, but shall attempt to give notice simultaneously with commencement of enforcement action or as soon thereafter as practicable. Notice may be provided to the property owner, agent, occupant, or to the applicant for any relevant permit. Furthermore, at the Town's discretion, the Town may proceed to abate the danger and assess the costs as a lien on the property and/or certify those sums to the Larimer or Weld County Treasurer to be collected from the violator with respect to the taxes on the subject property.

   c. *Extension of time for correction*. The Town Board may grant an extension of the time to cure an alleged violation, up to a total of 90 days as it deems appropriate.

2. *Deny/withhold approvals or permits*. The Town may deny and withhold all approvals, permits, certificates, or other authorization to use or develop any land, structure, or improvements thereon including the vacation of plats in whole or in part until the alleged violation related to such property, use, or development is corrected. This provision shall apply whether or not the current owner or applicant for the permit is responsible for the violation.

   Where a property owner, agent, or other person has a record of an outstanding violation of this Code, the Town shall be authorized to deny or withhold all permits, certificates of occupancy, or other forms of authorization for any use or development activity undertaken by such person until all outstanding violations are corrected. This provision shall apply whether or not the property for which the permit or other approval is sought is the property in violation.

   The denial or withholding of a permit by the Town may be appealed to the Board of Adjustment as provided in 30-3-108 of this Code.

3. *Revocation of permits*.

   a. *Revocation by Town Board*. The Town may revoke any development permit, certificate or other authorization, for violation of this Code.

   b. *Reconsideration of revocation*. The applicant may request a public hearing for reconsideration of the Town's revocation.

   c. *Notice of public hearing*. The public hearing on the reconsideration of revocation shall be conducted during a regular or special meeting of the Town Board, or a hearing officer appointed by the Town Board, not less than seven days, nor more than 21 days from the date the notice of the hearing is given. Notice of hearing shall be deemed given to the owner, the owner's agent or other person to whom the development permit was issued, upon deposit of said notice in the U.S. Mail, by certified mail, return receipt requested, addressed to the last known address of said person. Additional methods of service may also be utilized to give notice of the public hearing.

   d. *Findings*. Following the public hearing, the Town Board or the hearing officer shall reinstate the permit revoked unless it finds any of the following:

      There is a departure from the approved plans, specifications, or conditions of approval; or

      There is a violation of any provision of this Code; or

      The development permit was obtained by false representation; or

      The development permit was issued in error.

   e. *Notice of revocation*. Written notice of the findings shall be served upon the owner, the owner's agent, applicant, or other person to whom the permit was issued by certified mail, return receipt requested, or such notice may be posted in a prominent location at the place of the violation. No work or construction or use of the property shall proceed after service of the revocation notice.

4. *Stop work order*.

   a. *Issuance of stop work order*. The Town may issue a written order to stop work on any property on which there is an uncorrected violation of either a provision of this Code or a provision of a land use approval or development permit, building permit or other form of authorization. The stop work order shall specify the violation(s). Service of the order shall be given in person, by certified U.S. Mail (return receipt requested) or by posting notice on the premises. After any such order has been served, no work shall proceed on any building, other structure, or tract of land covered by such order, except to correct such violation or comply with the order. The notice shall also state any appeal and/or variance procedures available pursuant to this Code.

   b. *Timing/notice*. The stop work order may be issued in conjunction with a notice of violation or subsequent to such notice. The stop work order may also specify a shorter time for correction of the violation if the Town determines a shorter time is necessary to protect the health, safety, or welfare of people or property in Berthoud. It shall be unlawful to violate the terms of a stop work order.

5. *Abatement or injunctive relief*. In addition to any other remedy, the Town may initiate injunctive or abatement proceedings or other appropriate legal action in the Berthoud Municipal Court or other court of competent jurisdiction to abate, remove, or enjoin such violation and to recover damages, costs, and reasonable attorney's fees incurred in the abatement and removal of such violation.

6. *Persons responsible*. The owner, tenant or occupant of any building or land or part thereof, may be held responsible for the violation and suffer the penalties and be subject to the remedies provided herein.

7. *Remedies cumulative*. The remedies provided for violations of this Code, whether civil or criminal, shall be cumulative and in addition to any other remedy provided by law or equity, and may be exercised in any order. Each day or portion thereof is considered a separate violation under this Chapter.

8. *Continuation of prior enforcement actions*. Nothing in this Code shall prohibit the continuation of previous enforcement actions undertaken by the Town pursuant to previous regulations.

9. *Appeals of enforcement actions*. Appeals of any order, requirement, decision, or determination made by an administrative official in the enforcement of this Chapter shall be made to the Board of Adjustment in accordance with this Code.

10. *Liability of Town of Berthoud*. This Code shall not be interpreted as establishing standards nor may it be construed to establish a basis to hold the Town responsible for any damages to persons or property by reason of the inspection or reinspection, or failure to inspect or reinspect, or by reason of issuing a building permit, or by reason of pursuing or failing to pursue an action for injunctive relief.

11. *Violations*. Violations of this Code may be enforced in the Berthoud Municipal Court or another court of competent jurisdiction, by any appropriate legal or equitable action, by abatement, by issuance of stop work orders, by injunction or restraining order, by revoking any permits or approvals issued, and by assessing any amounts due or delinquent fines. Any one or any combination of the foregoing penalties and remedies may be used to enforce this Code.

12. *Penalty*. Failure to comply with all of the provisions of this Code shall be unlawful and upon conviction is punishable by a fine of up to $2,650.00 or imprisonment for a period not more than one year, or both. Each day that such violation continues to exist shall be considered a separate offense.

13. *Costs and attorney's fees for enforcement for abatement incurred by the Town*. Costs and attorney's fees associated with said abatement shall be charged to the owner of the property where the violation occurred and any other person responsible for the violation as defined in this Code. The cost of abating a violation of this Code shall include all direct and indirect costs of such abatement, plus costs and compound interest at the rate of one percent per month. Notice of the bill for abatement of the violation shall be mailed to the last known address of said property owner by certified mail, and is payable within 30 calendar days from the receipt thereof. If all costs are not paid within 30 days of the notice, such costs may be liened against the property and/or certified to the Larimer or Weld County Treasurer and collected along with the taxes on the property.

30-1-112 Vested Rights

A. Purpose. The purpose of this section is to implement the Colorado Vested Property Rights Statute.

B. Applicability. A vested right is established under C.R.S. 24-68-101 et seq., as amended, upon approval of a site-specific development plan by the Town Trustees. Site-specific development plans are defined to be final plats for subdivisions and use by special review permits.

C. Approval. A vested right is automatically created upon the approval or conditional approval of a site-specific development plan, following notice and a public hearing. Failure to abide by the terms and conditions of approval will result in a forfeiture of vested rights.

D. Notice. The Director must publish a notice of the approval of the site-specific development plan in a newspaper of general circulation no later than 14 days after approval.

E. Term. A vested right created by approval of a site-specific development plan remains in effect for three years from the date of the Town Trustees' approval, unless the Trustees determine, as part of the site-specific development plan approval, that a longer period is warranted in light of relevant circumstances. Those circumstances may include, but are not limited to, the size and phasing of the development, economic cycles, and market conditions.

F. Modification of the Plan. The Town Trustees' approval of any modification to a site-specific development plan does not extend the term of a vested right unless expressly authorized by the Trustees.

G. Exceptions. A vested right does not preclude any zoning or land use action taken by the Town under the following circumstances:

   a. With the consent of the affected property owner; or

   b. Upon the discovery of natural or manmade hazards or in the immediate vicinity of the property, which hazards could not reasonably have been discovered at the time of the site-specific development plan approval, and which hazards, if uncorrected, would pose a serious threat to the public health, safety, and welfare; or

   c. To the extent that the affected property owner receives just compensation for all costs, expenses, and liabilities incurred by the property owner after approval by the Town. These include, but are not limited to, costs incurred in preparing the site for development consistent with the site-specific development plan; all fees paid in consideration of financing; and all architectural, planning, marketing, legal, and other consultants fees, together with interest at the legal rate until paid. Just compensation does not include any diminution in the value of the property caused by such action.

H. A vested right does not preclude the application of regulations that are general in nature and applicable to all property subject to land use regulations by the Town, including but not limited to, building, plumbing, electrical, and mechanical codes.

30-1-113 Nonconformities

A. Purpose. This section governs nonconformities which are uses, buildings, structures, lots, signs and site features (such as landscaping), that were legally established prior to the adoption of this Code and no longer comply with one or more requirements of this Code. The provisions of this section are intended to recognize the interests of property owners in continuing to use nonconformities in a productive manner, while encouraging and establishing processes to bring as many aspects of the nonconformity into conformance with this Code and master plans affecting the nonconformity.

B. Determination of Nonconforming Status. The Town Administrator or their designee has the authority to determine whether a use, building, structure, lot or site feature is nonconforming. A property owner shall make a written request for the designation of a nonconformity status. The burden of proof for establishing the existence of a nonconformity shall be the responsibility of the applicant with the approval of the property owner. The Town Administrator's or designee's determination may be appealed pursuant to the Board of Adjustment Section of this Chapter.

C. Regulations applicable to all Nonconformities.

   1. Any nonconformity for which a building permit has been issued prior to the date of enactment of this Section may be completed and used in accordance with the plans, specifications, and permits on which said building permit was granted, if construction is commenced within two months after the issuance of said permit and diligently pursued to completion.

   2. Ordinary repairs and maintenance of a nonconforming building or structure shall not be deemed an expansion of such nonconforming building or structure and shall be permitted.

   3. No nonconformity shall be altered, extended, or restored so as to displace any conforming use.

4. A nonconformity which has been damaged by fire, flood, or other calamity may be restored to its original condition, provided that such work is commenced within six months of such calamity.

5. A nonconformity which has been damaged outside of a calamity may not be replaced to replicate the nonconformity.

6. When a nonconformity has been discontinued for a period greater than six months, such nonconformity shall not thereafter be reestablished and any future use shall be made in conformance with the provisions of this Code.

7. Any nonconforming building or portion thereof declared unsafe by the Building Official which may be replaced, strengthened or restored to a safe condition by order of the Building Official.

8. If the nonconformity was approved through special review or other use or site-specific permit process under a prior Land Use Code, that approval carries forward to this Code.

9. If the nonconformity was nonconforming under the previous Land Use Code and is conforming in this Code, it will lose its nonconforming status and be considered conforming.

10. If the nonconformity was nonconforming under the previous Land Use Code and requires special approval pursuant to this Code, it will remain nonconforming unless the property owner seeks to change the nonconformity, in which case the applicant will be required to either submit an application for approval of the nonconformity or cause the nonconformity to become conforming.

30-1-114 Construction Rules and Regulations

A. *Applicability and Purpose.* This section shall apply to all new development or re-development construction projects that include work visible to the public within the Town except for the renovation of an individual single-family home.

B. To ensure all Construction Activity conducted within the Town is done in the most sensitive manner possible and to minimize impacts, the following Construction Regulations shall be enforced during the construction period of all development projects unless otherwise approved by the Town. This document shall be known as the "Construction Rules and Regulations" and may be referred to herein as the "Regulations." The Town has the power to amend these Regulations from time to time, following notice requirements outlined in this Chapter. Each Owner shall ensure that all Construction Activity on their Construction Site shall be performed in accordance with the following requirements. Anyone found in violation of these Regulations shall be subject to citation, fines and other enforcement actions as allowed by the Town Municipal Code and Development Code.

1. Construction Activity is defined as any building, infrastructure, and/or construction related activity conducted outdoors at any time. Interior construction activity conducted entirely indoors, such as painting and some finishing work, is exempt from the requirements of this ordinance.

2. Large Construction Vehicle is defined as vehicles with more than two axels engaged in activity related to Construction Activity.

C. *Drainage, Erosion Control, and Vegetation Management.* The Town requires the owner or operator of a construction site to receive permit certification issued by the State of Colorado for any proposed construction activity that falls under the category of a General Construction Stormwater Permit as defined by the Colorado Department of Public Health and Environment (CDPHE). In addition, the town must review approve and permit a site-specific Stormwater Management Plan (SWMP) submitted by the owner of the construction stie prior to the Town approving the construction activity. The owner of the construction site is responsible for preparing and submitting the SWMP to the Town. In no event shall silt, mud, debris, or other stormwater related issues be allowed to accumulate on lots, roads, Rights-of-Way (ROW), or other public areas for more than 72 hours.

1. In addition to implementing, monitoring, and updating the SWMP throughout construction, the Owner shall not allow standing water exceeding an area of 25 square feet to remain in place longer than 72

hours. Temporary pumps and associated piping may be used to remove areas of standing water and shall conform to best practices identified in the SWMP.

2. All open space areas in each phase of a development shall be seeded or landscaped pursuant to the approved SWMP, erosion control plan and approved Landscape Plans prior to the time when 51 percent of the building permits are issued in said phase. Delays associated with weather will not be granted.

3. Any material storage on site shall be done in such a way that proper vegetation management can continue unimpeded.

D. *Construction Equipment and Material Storage.* Each Owner or Owner's Representatives and their contractors shall ensure all construction material is stored in a designated materials storage area. Such storage area shall only be located on lots with approved permits and shall be located to minimize the visual impact from adjacent properties and roadways. Construction materials shall not be stored in the Right-of-way for more than 72 hours without prior approval from the Town. Any materials stored within Right-of-way shall not impede pedestrian and/or vehicular traffic and shall be marked with high visibility cones or other signage.

E. *Debris and Trash Removal.* Owners, Owner's Representatives, and their contractors shall be responsible for assuring:

1. At the end of each day, all trash and debris on the Construction Site is cleaned up and stored in proper containers and not permitted to be blown about the Site or adjacent property, and

2. At least once a week, all trash and debris are removed from the Construction Site to a proper dumpsite located off the Property.

3. All trash and debris containers shall be located on the Construction site, off the road right of way, and not on sidewalks, or adjacent property except for in pre-approved storage areas. Any trash and debris containers shall be set in such a way that they do not create visual barriers for traffic and pedestrians. Determination of such barriers shall be at the sole discretion of the Town.

F. *Construction Hours and Noise.* Construction Activities shall be limited to the following hours of operation:

1. Monday through Friday: 7:00 a.m.; 7:00 p.m. or Sundown, whichever occurs earlier

2. Saturday: 8:00 a.m. — 7:00 p.m. or Sundown, whichever occurs earlier

3. Sunday: 9:00 a.m. — 4:30 p.m.;

4. Entrance to Construction Sites for set-up only is permitted one half hour prior to hours of operation. (e.g. M—F 6:30 a.m.) During the half-hour set-up, the operation of heavy equipment, compressors, impact tools, or any activity that creates loud noise shall be prohibited. At all times each Owner shall use reasonable efforts to minimize external noise resulting from Construction Activity. No loud music shall be permitted.

G. *Large Construction Vehicle Routes.* Delivery and haul routes for all vehicles with more than two axels shall avoid all local or neighborhood roads outside of the construction site. Large Construction Vehicles as defined herein must obey all posted speed limits and traffic regulations within the Town.

H. *Prohibited General Practices.* All Owners will be responsible for the conduct and behavior of their Owner's Representatives in the Town. The following practices are prohibited within the Town and will result in an automatic fine:

1. Changing oil on any vehicle or equipment on the Construction Site without spill protection containment and safeguards. This activity shall take place in an approved containment area;

2. Allowing concrete suppliers and contractors to clean their equipment on any property within the Town of Berthoud lot, roadway, right-of-way, ditch, easement, or other property without prior approval;

3. Removing rocks, plant material, topsoil, or similar items from the property of others within Town;

4. Using disposal methods or units other than those approved by the Town;

5. Careless disposition of cigarettes and other flammable materials;
6. Disturbing or removal of any native plant materials not identified for removal on the approved construction plans;
7. Disruptive activity including, but not limited to, public drinking, public nuisances, and disturbing the peace;
8. Working before or after the scheduled construction hours without prior permission;
9. Driving haul trucks with uncovered loads in the Town.
10. Storing building or landscape materials within the right-of-way, even prior to Town acceptance, for more than 72 hours.

I. *Roadway Maintenance.* Owners and their contractors and sub-contractors shall keep all Town roads and road rights-of-way free and clear of all materials, rubbish, and debris resulting from Owner's Construction Activity and shall repair and revegetate any damage to roads, road rights-of way, landscaping, and other streetscape improvements within the Town caused by Construction Vehicles used in connection with Construction Activity by Owner's or Owner's Representative. No road cuts, deletions, or additions shall be made without a permit from the Town Engineer, or their designee. Contractors must keep the Site driveway and all adjacent roads clean from dust, dirt, mud, and debris at all times. If a contractor fails to keep roads clean and if the Town arranges for cleaning, the cost of cleaning will be billed to the Owner, in care of the contractor, at a rate then set by the Town.

J. *Sanitary Facilities.* On-Site, enclosed, chemical toilets must be available at all times when Construction Activity is taking place on a Construction Site. Chemical toilets shall be located to minimize any adverse impacts on adjacent lots. In no instance shall chemical toilets be placed within any road right-of-way or on the road.

K. *Signage.* At least one temporary site sign, a minimum of 12 square feet and a maximum of 32 square feet in size, shall be located within the Site boundary and shall be easily visible and readable from the adjacent roadway or entry to the Site. The sign shall be either attached to construction fencing in a secure method; or posted separately with stable sign supports. Sign posting shall be done in a manner to withstand weather including wind. The sign is temporary and shall be removed following construction completion. The sign must contain the information shown below.

1. Project logo and/or name.
2. Work site address.
3. Developer/Owner name and phone number.
4. Contractor name and phone number.
5. Builder name and phone number.
6. CDPHE Number and phone number for CDPHE Inspector
7. Work Site Rules.

30-1-115 Effective date

A. The provisions of this Code were originally adopted on March 27, 2012 and repealed and replaced in their entirety on November 11, 2025. Subsequent revisions to this Code are noted at the beginning of each Chapter with the relevant Ordinance number and effective date of change. Development plans approved under previous regulations that received vested property rights through a site specific development plan shall be valid for the duration of that vested property right provided that all terms and conditions of the site specific development plan are followed. Existing legal uses that may become nonconforming by adoption of this Code shall become legal nonconforming uses subject to the nonconformity provisions of this Chapter.

30-1-116 Application fees

A. Application fees for all land use applications shall be paid according to the Town of Berthoud fee schedule. The fee schedule may be revised by Board resolution and is available from the Town Clerk.

30-1-117 Development review deposit and reimbursement of Town costs

A. Fees sufficient to cover the costs of administration, inspection, publication of notice and similar matters will be charged to applicants for all permits and land use applications provided herein. In addition to the standard fees, the applicant and/or the owner of the property which is the subject of the application shall be required to pay any actual costs and fees incurred by the Town for review of the application by consultants, including but not limited to engineering, surveying, legal and planning plus actual costs for Town staff administrative costs and supplies incurred by the Town through the warranty period expiration for development and through the issuance of certificates of occupancy for any building. The Town may require a deposit from applicants to offset the Town's costs for review prior to consideration of any application submittal pursuant to this Code. Subsequent deposits may be required when the initial deposits are 50 percent depleted. These deposits may exceed the total amount of fees collected using the standard schedule of fees. The Town shall not continue processing of any application for which the applicant or the property owner has not deposited the funds to cover the Town's cost of review.

B. Any funds deposited in excess of the standard fees remaining after paying the actual costs incurred by the Town shall be refunded to the owner or applicant as appropriate. The Town may certify to the County Treasurer any amount due pursuant to this paragraph as a lien on the property for which the application is submitted to be due and payable with the real estate taxes for the Town if the applicant or the property owner does not pay such amount within 30 days of written request by the Town.

30-1-118 Severability

A. If any part, section, subsection, sentence, clause or phrase of this Code is for any reason held to be invalid, such invalidity shall not affect the validity of the remaining sections of the Code.

30-1-119 Computation of time

A. In computing a period of days, the first day and the last day are included.

B. If the last day of any period is a Saturday, Sunday, or legal holiday, the period is extended to include the next day, which is not a Saturday, Sunday, or legal holiday.

C. If a number of months is to be computed by counting the months from a particular day, the period ends on the same numerical day in the concluding month as the day of the month from which the computation is begun, unless there are not that many days in the concluding month, in which case the period ends on the last day of that month.

30-1-120 Miscellaneous

A. As used in this Code, words used in the singular include the plural and words used in the plural include the singular.

B. The words "must," "shall" and "will" are mandatory; "may," "can," "should" and "might" are permissive.

C. The word "lot" shall include the words "building site", "site", "plot" or "tract".

D. A "building" or "structure" includes any part thereof.

E. Words used in the present tense include the future tense.

30-1-121 Definitions

The words and phrases used in this Code shall have the meanings defined below unless otherwise specifically provided or unless clearly required by the context. Questions of definition or wording usage shall be interpreted by the Town Administrator based on the context of their usage and the intention of the section of this Code in which they occur.

Access drive means a street or right-of-way providing ingress and egress to properties adjacent to a regional thoroughfare, arterial street, collector street, or local street.

Accessory means a use, activity, building or structure, or part of a building or structure that is subordinate and incidental to the principal activity or building or structure on the site.

Accessory building or structure means a subordinate building or structure detached from and located on the same lot as a principal building or structure. The use of an accessory building or structure must support the occupants and be accessory to the use of the principal building or structure and shall be under the same ownership in all respects. Accessory building or structures include but are not limited to storage sheds, detached garages, and gazebos.

Accessory dwelling unit means a residential dwelling unit located on the same lot as a single-family dwelling unit, either within the same building as the single-family dwelling unit or in a detached building, that provides complete independent living facilities, including but not limited to permanent facilities for sleeping, eating, cooking, and sanitation for one or more persons. Mobile homes and recreational vehicles shall not be included within the definition of the term Accessory Dwelling Unit. Accessory dwelling units shall be developed in accordance with the standards set forth in the Accessory Dwelling Unit section of this code and only in those zoning districts where the use is listed as a use by right. Also referred to as a 'Guest House' or 'Mother-in-Law Suite'.

Accessory use means a use of land or building or structure incidental to and subordinate to the principal use of the land or building or structure.

Adjacent means meeting or touching at some point, or separated from a lot or parcel by one of the following: a street, alley, or other right-of-way, lake, stream, or open space.

Adjacent property owner means an owner of record of any estate, right or interest in real property abutting the subject property.

Affordable housing development means a development in which: (1) at least 75 percent of the gross acreage to be developed under the plan is to be developed as residential dwelling units or mobile home park spaces; (2) at least ten percent of said dwelling units or spaces (the "affordable housing units") are to be available for rent or purchase on the terms described in the definitions of affordable housing unit for rent or affordable housing unit for sale (as applicable); (3) the construction of the dwelling units or spaces is to occur as part of the initial phase of the project and (i) prior to the construction of the market rate units or (ii) on a proportional basis, according to the same ratio as the number of affordable units bears to the number of the market rate units; and (4) the units will be required by binding legal instrument acceptable to the Town and duly recorded with that County's Clerk and Recorder, to be occupied by and affordable to low-income households for at least 20 years.

Affordable housing unit for rent means a dwelling unit which is available for rent on terms that would be affordable to households earning 80 percent or less of the median income of that County's residents, as adjusted for family size, and paying less than 30 percent of their gross income for housing, including rent and utilities. The unit must be occupied by and be affordable to such low-income household(s) for a period of at least 20 years.

Affordable housing unit for sale means a dwelling unit which is available for purchase on terms that would be affordable to households earning 80 percent or less of the median income of residents, as adjusted for family size

and paying less than 38 percent of their gross income for housing, including principal, interest, taxes, insurance, utilities and homeowners' association fees. The unit must be occupied by and affordable to such low-income household(s) for a period of at least 20 years or more.

Agricultural activity means farming, including plowing, tillage, cropping, seeding, cultivating or harvesting for the production of food and fiber products; horticulture, the grazing or raising of livestock (except in feedlots); aquaculture; sod production; orchards; Christmas tree plantations; nurseries; and the cultivation of products as part of a recognized commercial enterprise. Agricultural activity shall not include the cultivation of marijuana.

Agricultural land means land that is being used for agricultural activities.

Alley means a public or private minor or secondary way which is used primarily for vehicular service access to the back or side of properties that otherwise abut a street, described in the Design Standards section of this Chapter.

Alteration means any change, addition or modification in construction, occupancy or use of a building or structure.

Alternative power generation facilities means any use of land in which alternative energies are produced. Alternative energies are those energy sources that are an alternative to fossil fuels, including but not limited to: solar, wind, biofuel, and hydrogen.

Amphitheater, outdoor means an outdoor space with tiers of seats for spectators at events.

Amusement center means an establishment providing primarily enclosed recreation activities including, but not limited to bowling, roller skating or ice skating, billiards, swimming pools, motion picture theaters, and related amusements. Accessory uses may include the preparation, serving and sale of food and/or sale or rental of equipment related to the uses.

Amusement park means an outdoor enterprise whose main purpose is to provide the general public with entertaining activity, where tickets are sold or fees collected at the activity. Commercial amusements include miniature golf courses, outdoor arcades, Ferris wheels, children's rides, roller coasters, skateboard parks, go-cart tracks, water parks, and similar uses.

Animal boarding means the operation of an establishment in which domesticated animals other than household pets are housed, groomed, boarded, trained, or sold. This term shall not include the operation of a kennel.

Animals, domestic means common household pets, such as dogs and cats, kept for amusement, companionship, decoration or interest.

Animal, exotic means all animals raised or boarded that are not commonly classified as household pets or livestock, but are wild in nature and may have the ability to inflict bodily harm on humans, including snakes in excess of four feet in length.

Animals, farm means animals commonly raised or kept in an agricultural, rather than urban, environment including but not limited to, chickens, pigs, sheep, goats, horses, cattle, llamas, emus, ostriches, donkeys, and mules.

Animals, food means fish, fowl, cattle, swine, sheep, and others raised for the purpose of food consumption.

Animal, household pet means any animal that has been bred or raised to live in or about the habitation of humans and is dependent on people for food and shelter, not including animals defined as livestock, exotic animals, or animals capable of inflicting substantial physical harm to humans. Includes dogs, domestic cats, canaries, parrots, pygmy goats, hamsters, ferrets, potbellied pigs, guinea pigs and similar rodents, fish, reptiles, rabbits, and such other species as would normally be sold at a pet shop.

Animals, livestock means cows, horses, swine, goats, donkeys, mules, sheep, or chickens.

Animals, wild means animals, such as wolves, tigers, lions, and snakes that are not normally a domestic animal or farm animal and would ordinarily be confined in a zoo or found in the wild.

Annexation means the act of attaching, adding, joining, or uniting a parcel of land to the legal entity known as the Town of Berthoud.

Appeal means a request by an applicant to the Board of Adjustment or Town Board for a review of an administrative interpretation of any provision of this Chapter or a request for a variance.

Appliance sales and service means a retail establishment for the sale and service of appliances including portable devices or instruments used for domestic functions such as vacuum cleaners, kitchen appliances, radios, ovens/ranges, dishwashers, washers, driers, refrigerators, freezers, for example.

Applicant means the owner of land; the owner's authorized representative, or the optionee of the land, as well as mineral owners and lessees; or the Developer applying for an approval by the Town pursuant to this Chapter.

Appurtenances mean the visible, functional, or ornamental objects accessory to and part of a building.

Aquifer recharge area means an area where water is absorbed into a natural aquifer adding to the zone of saturation.

Arcade means a series of arches supported on piers or columns.

Area light means a light that produces over 2,050 lumens. Area lights include, but are not limited to, street lights, parking lot lights, and yard lights.

Area of lot means the total horizontal area within the lot line boundaries of a lot.

Area of special flood hazard means the area covered by the floodwaters of the base flood, and are typically delineated on National Flood Insurance Program (NFIP) maps.

Automatic timing device means a device that automatically controls the operation of a light fixture or fixtures, circuit or circuits. Photocells and light and or motion sensors should be considered automatic-timing devices

Automotive repair, (major) means an establishment primarily engaged in the repair or maintenance of commercial and heavy truck motor vehicles, trailers and similar large mechanical equipment, including paint, body and fender and major engine and engine part overhaul, provided it is conducted within a completely enclosed building. Such use shall not include the sale of fuel, gasoline or petroleum products.

Automotive repair, (minor) means an establishment primarily engaged in the repair or maintenance of passenger and light truck motor vehicles, trailers and similar mechanical equipment, including brake, muffler, upholstery work, tire repair and change, lubrication, tune ups and transmission work, car washing as an accessory use or component of other service, detailing, polishing or the like, provided it is conducted within a completely enclosed building. Such use shall not include the sale of fuel, gasoline or petroleum products.

Average footcandle means the level of light measured at an average point of illumination between the brightest and darkest areas. The measurement can be made at the ground surface or at four to five feet above the ground.

Awning means a fixed or movable roof-like cover of canvas or other material extending in front of a doorway or window, or over a deck, to provide protection from the sun or rain.

Banks and financial institutions are open to the public and engaged in deposit banking, and that performs closely related functions such as making loans, investments, and fiduciary activities with or without drive through windows and/or an attached or stand-alone banking kiosk (Automated Teller Machine (ATM)).

Bar or *tavern* means an establishment providing or dispensing fermented malt beverages, and/or malt, vinous or spirituous liquors and in which the sale of food products such as sandwiches or light snacks is secondary.

Base flood means the flood having a one percent chance of being equaled or exceeded in any given year, also known as the 100-year flood, and is a standard used by the National Flood Insurance Program (NFIP).

Beacon, revolving means a rotating or blinking source of light or electronic simulation of a revolving source of light.

Bed and breakfast means an establishment operated in a principal dwelling or portion thereof, which provides temporary accommodations to overnight guests for a fee and which is occupied by the operator of such establishment. A bed and breakfast may provide accommodation to individuals or multiple separate parties concurrently on both a reservation or a walk-in basis. The "party" as used in this definition shall mean one or more persons who stay at a bed and breakfast as a single group pursuant to a single reservation and payment. The maximum number of guests allowed in a Bed and Breakfast shall be twelve (12).

Bedroom means a fully enclosed portion of a building, designed or intended to be used for sleeping purposes and meets the definition found in the Town's Building Code.

Berm means an earthen barrier of compacted soils preventing the passage of liquid materials, or providing screening from adjacent uses.

Bicycle parking, enclosed shall mean bicycle storage in lockers, a room, or other space within a parking structure or other building, including a shed or carport. All types of enclosed bicycle storage must be easily accessible to entrances and walkways, secure, lighted and protected from the weather. Each storage space shall provide a minimum of six square feet in area. The storage space shall not impede fire exits or be located so that parked bicycles interfere with public access.

Bicycle parking, fixed shall mean bicycle parking that allows the bicycle frame and both wheels to be securely locked to the parking structure. The structure shall be of permanent construction such as heavy gauge tubular steel with angle bars permanently attached to the pavement foundation. Fixed bicycle parking facilities shall be at least two feet in width and five and one-half feet in length, with additional back-out or maneuvering space of at least five feet.

Bikeway means a path designed for use by bicyclists, which may be used by pedestrians.

Bike lane means a dedicated lane of a street intended for use by bicycles.

Billboard means a sign advertising products not made, sold, used, or served on the premise displaying the sign.

Blank wall means an exterior building wall with no openings and a single material and uniform texture on a single wall plane.

Block means a unit of land, or a group of lots, bounded by streets or by a combination of streets and public lands, or other rights-of-way other than an alley, waterways, or any barrier to the continuity of development, or land which is designated as a block on any recorded subdivision tract.

Board means the governing body of the Town of Berthoud; also known as the Town of Berthoud Board of Trustees.

Board of Adjustment means the Town of Berthoud Planning Commission acting as the Board of Adjustment.

Boarding and rooming house means a building or portion of which is used to accommodate, for compensation, four or fewer boarders or roomers, not including members of the occupant's immediate family who might be occupying such building. The word compensation shall include compensation in money, services or other things of value.

Bollard means a pole used to protect a building from impact or to close a road or path to vehicles above a certain width.

Building means any permanent or temporary structure built for the shelter or enclosure of persons, animals, chattels, or property of any kind, which is governed by the following characteristics:

a. Is permanently affixed to the land, or
b. Has one or more floors and a roof.

Building code(s) means the set of standards that must be followed in the construction and remodeling of buildings and structures.

Building envelope means the two dimensional (horizontal) space within which a building or structure is permitted to be built on a lot. The size of a building envelope is typically defined by setbacks, easements, and floor-area ratio.

Building frontage means the horizontal, linear dimension of that side of a building, which abuts a street, a parking area, a mall, or other circulation area open to the public and has either a main window display or a public entrance to the building.

Building height is measured from the average of finished grade at the center of all walls of the building to the top of the parapet or highest roof beam (whichever is higher) on a flat or shed roof, to the top of the parapet or deck level (whichever is higher) of a mansard roof, or the average distance between the highest ridge and its eave of a gable, hip, or gambrel roof.

Building Official means a person or persons charged with implementing and enforcing provisions of the Building Code.

Bulb means the source of electric light — to be distinguished from the whole assembly (See Luminaire).

Bus shelters means a small, roofed structure, usually having three walls and located near a street. The structure is designed primarily for the protection and convenience of bus passengers who are waiting to board transit.

Business means any lawful commercial endeavor to engage in the manufacturing, purchase, sale, lease, or exchange of goods and/or the provision of services.

CBT Unit means a Unit of the Colorado Big Thompson Project. A CBT Unit shall be defined to have a firm yield of 0.6 acre feet.

Caliper means the American Association of Nurserymen standard for trunk measurement of nursery stock, as measured at six inches above the ground for trees up to and including four-inch caliper size, and as measured at 12 inches above the ground for larger sizes.

Candela (cd) means a unit of luminous intensity.

Canopy means an ornamental or functional roof-like structure which is supported from the façade of a building. It may or may not be supported by columns.

Cantilever means an architectural element which projects from a structure and is supported at only one end.

Car and motor vehicle sales means storage and display of operational automobiles, motorcycles, RV's, boats, or trucks in the open or in an enclosed space for sale or trade.

Car/motor vehicle washes means a building or portion of a building used for the washing of automobiles, light trucks and vans, but not commercial fleet, buses, and heavy trucks. Operating functions are performed mechanically, manually (self-service), and some may include partial manual detailing by the operator/owner of the vehicle. Vacuum stations may be included.

Caretaker Dwelling means an accessory dwelling on a non-residential property, secondary to the non-residential use of the property, occupied by the person who oversees the non-residential operation 24 hours a day, and their family.

Cash in lieu of water dedication means a separate and distinct fee from water taps, as required in the Development Review and Impact Fee Section of this Chapter thereof, which fee shall be utilized primarily to acquire water rights and necessary facilities for all beneficial uses within the Town. The Town shall issue a Certification of Water Dedication Credits for cash in lieu of water dedication payments for future development of the Town.

Cash-in-lieu (also known as "fee-in-lieu") for all purposes except water dedication means that the applicant, at the discretion of Town staff with final approval by the Town Administrator, shall pay the Town money instead of dedicating land in those cases where such delivery or dedication is required.

Cemetery means land used or intended to be used for the burial of the dead and dedicated for cemetery purposes, including mausoleums and mortuaries when operated in conjunction with, and within the boundaries of, such cemetery.

Center line means a line running midway between the bounding right-of-way lines of a street or alley. Where the bounding lines are irregular, the center line shall be determined by the Town Planner or Town Engineer.

Certificate of occupancy means a certificate issued by the Town only for the benefit of the Town after final inspection and upon a finding that the building, structure, site and/or development complies with all provisions of the applicable Town codes, permits, requirements and approved plans.

Change in use or *Change in Land Use* means a change in the purpose or activity for which a particular piece of land or its buildings is designed, arranged, or intended, or for which it is occupied or maintained as provided in the zoning regulations for the zone district in which the land is located.

Chapter means Chapter 30 of the Berthoud Municipal Code, also referred to as the Berthoud Development Code, both also referred to as this Code.

Character means those attributes, qualities and features that make up and distinguish a building or development and give it a sense of purpose, function, definition and uniqueness.

Child care center shall have the same definition as C.R.S. §26-6-102 (1.5) in effect at the time of interpretation.

Child care home means a residential home providing care to no more than twelve children.

Church or *place of worship and assembly* means a building containing a hall, auditorium or other suitable room or rooms used for the purpose of conducting religious or other services or meetings of the occupants of such structure. Church or place of worship and assembly shall include churches, synagogues or the like, but shall not include buildings used for commercial endeavors, including, but not limited to, commercial motion picture houses or stage productions.

Clerestory means a portion of an interior rising above adjacent rooftops and having windows admitting daylight to the interior.

Clinic means a building designed and used for the diagnosis and treatment of human patients that does not include overnight care facilities.

Clinic, addiction treatment means a building designed and used for the diagnosis and treatment of human patients with addictions and may include residential facilities licensed by the Colorado Department of Public Health and Environment, but excluding correctional and post-correctional facilities, juvenile detention facilities and temporary custody facilities. This definition does not include facilities which house more than one (1) individual who is required to register as a sex offender pursuant to State law.

Clubs and lodges means organizations of persons for special purposes or for the promulgation of sports, arts, literature, politics, or other common goals, interests or activities, characterized by membership qualifications, dues or regular meetings, excluding clubs operated for profit and/or places of worship or assembly.

Commercial mineral deposits mean oil, gas, gravel, and other natural deposits that may be extracted from a property for economic benefit.

Commercial and retail businesses, indoor sales and service – An establishment or place of business primarily engaged in selling merchandise or providing a service to individuals located indoors.

Common area means an area of land and buildings within a residential development which is developed for the use and enjoyment of all residents of the project, as distinguished from land designated for their individual, private use.

Common equestrian stabling and grazing means shared pastures and/or common barns for horses in a conservation subdivision and which is owned and maintained by a homeowner's association.

Community Design Standards means the standards set forth in the Design Section of this Chapter.

Community facility means a publicly owned facility or office building which is primarily intended to serve the recreational, educational, cultural, and administrative or entertainment needs of the community as a whole.

Community garden – A private or public facility used for the cultivation of fruits, flowers, vegetables, or ornamental plants by more than one person or family.

Community influence area (CIA) means the area extending three miles or more beyond the Town's municipal boundaries, for which the Town may be statutorily required to undertake general land use planning activities. Also known as the Future Land Use Area, Urban Growth Boundary, or Three-Mile Plan.

Compatibility means the characteristics of different uses or activities or design which allow them to be located near or adjacent to each other in harmony. Some elements affecting compatibility include height, scale, mass, and bulk of structures. Other characteristics include pedestrian or vehicular traffic, circulation, access and parking impacts, landscaping, lighting, noise, odor, and architecture. Compatibility does not mean "the same as." Rather, compatibility refers to the sensitivity of development proposals to nearby existing and proposed development.

Comprehensive Plan means the adopted Town of Berthoud Comprehensive Plan, as amended.

Compressed gravel means gravel that has 95 percent compaction at standard proctor densities at two percent ± optimum moisture content.

Condominium means a single dwelling unit in a multiple unit structure or a commercial/industrial building which is separately owned and which may be combined with an undivided interest in the common areas and facilities of the property.

Conservation easement means a right to prohibit certain acts with respect to the property in order to maintain the property in a manner that will preserve its value for recreation, education, habitat, open space, or historical importance.

Construction documents means the written specifications and drawings showing the specific location and design of improvements to be installed for the subdivision or development project in accordance with all applicable requirements and land uses.

Container means a truck trailer body or a cargo or shipping container that can be detached from the chassis for loading into a vessel, a rail car or stacked in a container depot. Containers may be ventilated, insulated, refrigerated, flat rack, vehicle rack, open top, bulk liquid or equipped with interior devices. Containers are intended for the temporary and mobile transport of goods, and may not be permitted for permanent use as storage, or as a permanent building.

Contractor's office/shop means an establishment for the indoor repair, maintenance, or storage of contractor's vehicles, equipment or materials for use in the mechanical, plumbing, electrical, electronic repair, small engine, landscaping contracting industry, for example. A contractor's office/shop may include the business office.

Convenience retail store means a retail store containing less than 5,000 square feet of gross floor area which sells everyday goods and services which may include, without limitation, ready-to-eat food products, groceries, over-the-counter drugs and sundries.

Convenience shopping center means a shopping and service center located in a complex which is planned, developed and managed as a single unit, and located within and intended to primarily serve the consumer demands of adjacent employment areas and residences.

Cooperative Planning Area (CPA) means the broader region within which land use activities are deemed to potentially impact the Town. While the Town may not have land use jurisdiction over much of this area, it is considered to be an area of significant planning influence.

Cornice means a continuous, molded projection that crowns a wall or other construction, or divides it horizontally.

Covenant means a private written agreement outlining regulations specific to a development. It is not enforced by the Town. No covenant shall be construed to be a waiver or modification of a requirement of this Code.

Cremation facility means a business containing properly installed, certified apparatus intended for use in the act of cremation.

Critical feature of Flood Control System Critical feature means an integral and readily identifiable part of a flood protection system, without which the flood protection provided by the entire system would be compromised.

Critical plant community means vegetation which is essential to the conservation of threatened or endangered species and which may require special management considerations or protection.

Crosswalk means a designated area for pedestrians to cross a street or other right-of-way.

Cul-de-sac means a local street with only one outlet and having the other end for the reversal of traffic movement.

Cultural assets means buildings, locations and other features considered historically or socially significant to the community.

Data Center means A use consisting of buildings or structures specifically designed or modified to house networked computers and data and transaction processing equipment and related infrastructure support equipment, including power and cooling equipment. A data center may be used to provide data and transaction processing services, outsource information technology services and/or computer equipment colocation services. A data center may also include buildings or structures that support the operation of the data center including retrofit buildings, warehousing for logistics, independent network buildings, buildings for support staff, and emergency generators. A Data Center shall not include activities which consistently produce noise discernable at the property line. Should a Data Center produce noise discernable at the property line, it shall be classified as an Industrial use.

Dedicated land means land transferred to the Town by platting, title, deed or other legal method approved by the Town Attorney.

Dedication means any grant to a public entity by a landowner of a right to use that land for public purposes. It involves a transfer of property rights and an acceptance of the dedicated property by the appropriate public agency.

Density (gross) means the overall average number of dwelling units located in a development and calculated on a per-acre basis. Gross density is calculated by dividing the total number of residential units by the total acreage contained within a development.

Density (net) means the number of dwelling units located in a development divided by the developable area. Developable area includes the entire residential portion of the development, except land dedicated for public and private streets, detention ponds, third-party easements, rights-of-way, parks, open space, and other land areas open to the public.

Design standards mean the standards that set forth specific requirements for buildings and infrastructure.

Detached structure means any structure having no party wall or common wall with another structure. Bridges, tunnels and other similar means of connecting one structure to another shall not be considered to constitute a party wall or a common wall.

Detention basin means a man-made or natural water collection facility designed to collect surface and sub-surface water in order to impede its flow and to release the water into natural or manmade outlets at a rate that is not greater than the rate of flow prior to the development of the property.

Developer means any person, partnership, joint venture, limited liability company, association or corporation who participates as owner, promoter, developer or sales agent in the planning, platting, development, promotion, sale or lease of a development.

Development means the carrying out of any building activity or mining operation, the making of any material, a change in the use or appearance of any structure or land, or the dividing of land into two or more parcels. When appropriate in context, development shall also mean the act of developing or the result of development or redevelopment.

a. Development shall also include:
    i. Any construction, placement, reconstruction, alteration of the size, or material change in the external appearance of a structure on land;
    ii. Any change in the intensity of use of land, such as an increase in the number of dwelling units in a structure or on a tract of land or a material increase in the intensity and impacts of the development;
    iii. Any alteration of a shore or bank of a river, stream, lake, pond, reservoir or wetland;

iv. The commencement of drilling oil or gas wells, mining, stockpiling of fill materials, filling or excavation on a parcel of land;
v. The demolition of a structure;
vi. The clearing of land as an adjunct of construction;
vii. The deposit of refuse, solid or liquid waste, or fill on a parcel of land;
viii. The installation of landscaping within the public right-of-way, when installed in connection with the development of adjacent property;
ix. The construction of a roadway through or adjoining an area that qualifies for protection as a wildlife or natural area; and
x. Any manmade change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations located within the area of special flood hazard.

b. Development shall not include:
i. Work by a highway or road agency or railroad company for the maintenance or improvement of a road or railroad track, if the work is carried out on land within the boundaries of the right-of-way;
ii. Work by any public utility for the purpose of inspecting, repairing, renewing or constructing on established rights-of-way any mains, pipes, cables, utility tunnels, power lines, towers, poles, or other infrastructure. This exemption shall not include work by a public entity in constructing or enlarging mass transit or fixed guide way mass transit depots or terminals or any similar traffic-generating activity;
iii. The maintenance, renewal, improvement, or alteration of any structure, if the work affects only the interior or the color of the structure or the decoration of the exterior of the structure;
iv. The use of any land for an agricultural activity;
v. A change in the ownership or form of ownership of any parcel or structure; or
vi. The creation or termination of rights of access, easements, covenants concerning development of land, or other rights in land.

Development agreement means an agreement by a developer with the Town which clearly establishes the developer's responsibility regarding project phasing, the provision of public and private facilities and improvements and any other mutually agreed to terms and requirements.

Development plan means the written and graphical documents that detail the provisions for development of a parcel of land . These provisions may include, and need not be limited to, easements, covenants and restrictions relating to: use; location and bulk of buildings and other structures; intensity of use or density of development; utilities, private and public streets, ways, roads, pedestrians, areas, and parking facilities; common open space, and other public facilities.

Developmental disability means a disability that manifests before the person reaches twenty-two years of age, that constitutes a substantial disability to the affected person, and that is attributable to an intellectual and developmental disability or related conditions, including Prader-Willi syndrome, cerebral palsy, epilepsy, autism, or other neurological conditions when the condition or conditions result in impairment of general intellectual functioning or adaptive behavior similar to that of a person with an intellectual and developmental disability. (C.R.S. 25.5-6-403)

Distillery means any establishment where spirituous liquors are manufactured. Distilleries may include a tasting room and retail sales where such manufactured liquors may be sold and consumed on-site. Distilleries are regulated and licensed in accordance with the Colorado Department of Revenue Liquor Enforcement Division.
Dormer means a projecting structure built out from a sloping roof, usually with a vertical window or vent.

Downtown means the central business district of the Town. The boundary of downtown may change as the Town grows.

Drive aisle means the lanes in a parking lot devoted to the passage of vehicles, as opposed to the parking stalls.

The term drive aisle does not include lanes used only, or primarily for, drive-in customer service.

Drive-through use means an establishment which by design, physical facilities, service, product or packaging procedures encourages or permits customers to receive services, obtain goods or be entertained while remaining in their motor vehicles.

Driveway means a constructed vehicular access serving one or more properties and abutting a public or private road.

Dwelling means a building used primarily for residential occupancy, including single-family dwellings, two-family dwellings and multi-family dwellings. Dwellings may include home occupations as defined by this Code through the Home Occupation permit process.

Dwelling, factory-built means a dwelling which is partially or entirely manufactured in a factory and designated for long-term residential use; built in multiple sections. Factory built homes must be constructed to the standards of the State of Colorado Factory Built Construction Certification Code (8 CRR 1302-3) and bear a certification insignia in compliance with those standards.

Dwelling, Mobile home means a unit partially or entirely manufactured in a factory, built on a permanent chassis, and which is designed to be transported on streets to the place where it is to be occupied as a dwelling unit, is at least eight feet wide and 32 feet long; and is designed to be used as a dwelling without permanent foundation when connected to required utilities. A mobile home is a manufactured home produced prior to June 15, 1976. A mobile home does not include a factory built home, manufactured home, or a recreational vehicle (RV).

Dwelling, Manufactured home means a single-family dwelling which:

a. Is partially or entirely manufactured in a factory;
b. Is not less than 24 feet wide and 36 feet in length;
c. Is permanently affixed to, and installed on an engineered permanent foundation at the entire perimeter of the dwelling;
d. Is connected to the required utilities, and includes plumbing, heating, air conditioning and electrical systems;
d. Has a pitched or cosmetically equivalent roof of at least 4/12 pitch;
e. Has brick, wood, or cosmetically equivalent wood exterior siding; and
e. Is certified pursuant to the "National Manufactured Housing Construction and Safety Standards Act of 1974", 42 U.S.C. 5401, et seq., as amended.

Dwelling, Model home means a dwelling temporarily used as a sales office or demonstration home for a residential development under construction, said dwelling being used as an example of a product offered for sale to purchasers (by a realtor, building developer or contractor). The dwelling may be furnished but not occupied as a residence while being used as a "model home." A model home is required to meet the architectural diversity requirements found in this Chapter as well as the lot development standards approved with the subdivision.

Dwelling, multi-family means a dwelling containing three or more dwelling units, not including hotels, motels, fraternity houses and sorority houses and similar congregate housing accommodations.

Dwelling, single-family attached means a residential building containing dwelling units, each of which primary ground floor has access to the outside and which are attached to each other by party walls without openings. The term is intended primarily for such dwelling types as townhouses and duplexes.

Dwelling, single-family detached means a single-family dwelling which is not attached to any other dwelling or building by any means, excluding mobile homes. Designed exclusively for occupancy by one family

Dwelling, two-family means a building designed for occupancy by two families living independently of each other.

Dwelling unit means any building or a portion thereof which contains living facilities, including provisions for sleeping, eating, cooking, and sanitation, as required by the International Building Code or the International Residential Code, as locally amended.

Easement means a right generally established in a real estate deed or on a recorded plat to permit the use of land by the public, a corporation or particular persons for specified uses.

Eave means the overhanging lower edge of a roof.

Eighty-five-degree full cut-off type fixtures means fixtures that do not allow light to escape above an 85-degree angle measured from a vertical line from the center of the lamp extended to the ground.

Elevation means the external vertical plane of a building.

Employment campus means an area characterized by single and multi-tenant uses commonly including corporate headquarters, research and development facilities, laboratories, offices and light industrial uses.

Engineer means a professional engineer licensed by the State of Colorado.

Entertainment facilities and theaters mean a building or part of a building devoted to showing live performances.

Environmentally sensitive areas include aquifer recharge areas, significant wildlife habitat and migration corridors, unique vegetation and critical plant communities, rivers, lakes, ponds, streams, other water bodies not including irrigation ditches and stormwater infrastructure, and ridge lines.

Equipment (small) rental establishments without outdoor sales means the display of equipment entirely within a building for sale or rent, and outdoor storage or display of equipment is not permitted. Equipment allowed through this definition are typically hand-operated, intended to be stored indoors, and geared to the general public and not the construction industry, such as ladders, blowers, mowers, saws, generators, etc.

Equipment rental (heavy) establishments with outdoor sales means the display of heavy equipment outside of a building for sale or rental purposes. Examples of such equipment includes, but is not limited to tractors, dozers, cranes, harvesters, etc.

Electric Vehicle (EV) means a motor vehicle which relies partially or entirely on electrical energy to power its movement, requiring periodic electrical current charging of its battery.

EV Charging Station means equipment that provides charging for EVs, located adjacent to dedicated space(s) for the vehicle(s) while they charge. One EV Charging Station may provide power for one or more vehicles.

EV Supply Equipment (EVSE) means all equipment necessary to provide electrical current charging for EVs, except for the EV Charging Station itself. This may include power conversion equipment, electrical distribution equipment, such as transformers, switchgear boxes, and distribution lines, and/or other supportive equipment.

EV Charging, Principal Use means DCFC EV Charging Stations and Equipment that serve as the primary function and land use on the subject lot. DCFC – or direct current fast charging – is high-speed charging that provides about 50-350+ kW of power per hour and uses a 480V three-phase outlet.

EV Charging, Accessory Use means DCFC EV Charging Stations and Equipment that are incidental and subordinate to the Primary Use on the subject lot. DCFC – or direct current fast charging – is high-speed charging that provides about 50-350+ kW of power per hour and uses a 480V three-phase outlet.

Exhaust pipe means a pipe used to guide waste exhaust gases away from a controlled combustion inside an engine or stove.

Exhaust vent means a continuous open passageway from the flue collar or draft hood of the appliance to the outside atmosphere for the purpose of removing flue gases.

Extension of water service means any extension of the Town water service for which a tapping charge is assessed or any increase in Town water service resulting from a Change in Land Use.

Exterior lighting means temporary or permanent lighting that is installed, located or used in such a manner to cause light rays to shine outside. Fixtures that are installed indoors that are intended to light something outside are considered exterior lighting.

Façade means the elevation or exterior face of a building.

Family as defined by Colorado State Statute means two or more persons, whether or not related by blood, marriage, or adoption, who live or expect to live together as a single household in the same home, or single person who is either at least sixty-two years of age or has a disability.

Family care, elderly day care center means a facility providing care for the elderly and/or functionally impaired adults in a protective setting for a portion of a 24-hour day. No overnight care is provided.

Farmer's Market means a temporary or occasional location for the outdoor retail sales of farm produce, art, fresh flowers, craft items, food and beverages from vehicles or temporary stands.
Feedlot means any tract of land or structure, pen or corral, wherein cattle, sheep, goats, emus, ostriches or swine are maintained in close quarters for the purpose of raising such livestock.

FEMA means Federal Emergency Management Agency.

Fence means any structure that is comprised of posts, boards, wire, stakes, rails or any combination of similar elements that provides a physical barrier, enclosure or boundary.

FHA means Federal Housing Administration.

Final plat means a completed map of a subdivision setting forth fully and accurately all legal information, survey certification and any accompanying materials as required by this Code.

Fire station means a building used to store and maintain fire equipment and to house firefighters.

Fireworks sales – temporary means an establishment for the sale of fireworks on a temporary basis.

Fixture means the assembly that holds the lamp in a lighting system. It includes the elements designed to give light output control; such as a reflector (mirror) or refractor (lens), the ballast, housing, and the attachment parts.

Flood or *flooding* means a temporary condition of partial or complete inundation of normally dry land areas from the overflow of inland waters or the unusual and rapid accumulation of runoff or surface waters from any source.

Floodplain or *flood hazard area* means areas which have been designated by the Board, the Colorado Water Conservation Board or FEMA as susceptible to flooding.

Floodprone means areas subject to flooding which have not been designated as a floodplain or flood hazard

area by the Board, the Colorado Water Conservancy Board or FEMA.

Floodway means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than 0.5 foot.

Flood Insurance Rate Map (FIRM) means the official map on which the Federal Emergency Management Agency has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.

Flood Insurance Study means the official report provided by the Federal Emergency Management Agency that includes flood profiles, the Flood Boundary-Floodway Map, and the water surface elevation of the base flood.
Flood light means light that produces up to 1,800 lumens and is designed to "flood" a well-defined area with light. Generally, floodlights produce from 1,000 to 1,800 lumens.

Floor area, also called *gross floor area*, means the total square footage of the building measured along the outside walls of the building and including each floor level, but not including open balconies, garages or other enclosed automobile parking areas and basement storage areas, and not including one-half of all storage and display areas for durable goods.

Floor Area Ratio (FAR) means the amount of gross floor area of all principal buildings on a lot or block, as the case may be, divided by the total area of such lot, or the block size, respectively, on which such buildings are located. For mixed-use blocks, the residential square footage shall be added to the commercial development for a total block FAR.

Flow line means the low point within a street section wherein water collects and flows, typically the gutters along each edge of the pavement.

Footprint, also called *ground level footprint*, means the outline of a building's perimeter at ground level.

Foot-candle means the illumination produced on a surface one foot from a uniform point source of one candela. Foot-candles will be measured by a light meter.

Foster care home shall have the same meaning as §26-6-903(10) of the Colorado Revised Statutes applicable at the time of interpretation.

Frontage means the length of property along one side of a street between property or lease boundary lines.

Full cutoff fixture means a fixture which, as installed, gives no emission of light above a horizontal plane.

Funeral home means a building used for the preparation of deceased persons for burial or cremation, for the display of deceased persons and/or for ceremonies or services related thereto, including cremation and the storage of caskets, funeral urns, funeral vehicles and other funeral supplies.

Gable means the triangular portion of wall enclosing the end of a pitched roof from cornice or eaves to ridge.

Garage means a building or part of a building wherein motor vehicles are housed or stored.

Gasoline station means any building, land area, premises or portion thereof, where gasoline or other petroleum products or fuels are sold and in which light maintenance activities such as engine tune-ups, lubrication and minor repairs may be conducted. Gasoline stations shall not include premises where heavy automobile maintenance activities such as engine overhaul, automobile painting and body and fender work are conducted.

Geologic hazards mean unstable or potentially unstable slopes, undermining, faulting, landslides, rock falls,

flood, wildfire or similar naturally occurring dangerous features or soil conditions or natural features unfavorable to development.

Glare means intense light that results in discomfort and/or a reduction of visual performance and visibility.

Grade means the degree of rise or descent of a sloping surface.

Grade, finished means the final elevation of the ground surface after development.

Grade, natural means the elevation of the ground surface in its natural state, before man-made alterations.

Grocery store, large means a retail establishment which primarily sells food, but also may sell other convenience and household goods, and which occupies a space greater than 25,000 square feet. The term large grocery store is synonymous with supermarket.

Grocery store, small means a retail establishment primarily selling food, as well as other convenience and household goods, which occupies a space of not more than 25,000 square feet.

Gross square footage (GSF) means the total floor area designed for occupancy and use, including basements, mezzanines, stairways and upper floors, if any, expressed in square feet and measured from the centerline of joint partitions and from outside wall faces.

Group *care facility* means a facility providing custodial care and treatment, or social services, in a protective living environment for persons residing in the facility either voluntarily or by court placement, including without limitation facilities commonly known as group homes for the aged, group homes for the developmentally disabled, group foster care homes, shelters for abused persons, safehouses, nursing homes, intermediate care facilities and residential care facilities licensed by the Colorado Department of Public Health and Environment, but excluding correctional and post-correctional facilities, addiction treatment clinics, juvenile detention facilities and temporary custody facilities. This definition does not include facilities which house more than one (1) individual who is required to register as a sex offender pursuant to State law.

Growth Management Area (GMA) means the existing incorporated area of the Town as well as additional areas outside of the current Town limits determined to be feasible for development at greater than county densities within the next 20 years. May also be referred to as the Future Land Use Map or the Three-Mile Plan.

Guaranty means any form of security in an appropriate amount and form satisfactory to the Town. "Guaranty" shall cover construction performance and warranty term provisions.

Health club means a facility that provides physical fitness services and/or equipment to its members.

Highway, corridor means the area within and adjacent to the rights-of-way of Colorado Highway 56, Colorado Highway 287 and Interstate 25.

High intensity activity node means a land use that caters to the needs of local residents and visitors alike and may contain a wide palette of uses that include commercial, office, residential, civic and transit amenities.

Hip roof means a roof having sloping ends and sides meeting at an inclined projecting angle.

Historic district means an area related by historical events or themes by visual continuity or character or by some other special feature that helps give it a unique historical identity. Such area may be designated a historic district by local, state, or federal government and given official status and protection.

Historic site means a structure or place of historical significance. Such structure or place may be designated a historic site by local, state, or federal government and given official status.

Holiday lighting means festoon type lights, limited to small individual bulbs on a string, where the output per bulb is no greater than 15 lumens.

Home occupation means an occupation or business activity conducted by the resident which results in a product or service and which is actively conducted by a person on the same lot on which the person resides.

Homeowners association means the association set up to enforce the covenants and to maintain all common areas and buildings for a development. Also known as an "Owners Association."

Horticulture means the growing of turf, fruits, vegetables, herbs, flowers or ornamental plants.

Hospital means an institution providing health services for human in-patient medical or surgical care for the sick or injured and including related facilities such as laboratories, out-patient departments, training and central services facilities and staff offices.

Hotel/motel/lodging establishment means a building intended and used for occupancy as a temporary abode for individuals who are lodged with or without meals, in which there are 12 or more guest rooms.

Human scale (pedestrian scale) means the proportional relationship between the dimensions of a building or building element, street, outdoor space or streetscape element and the average dimensions of the human body, taking into account the perceptions and walking speed of a typical pedestrian.

I-25 corridor/Highway 56 gateways means the land near this intersection that may include bridge enhancements, entrance monumentation and special landscape treatments designed to announce entrance into the community.

Illuminance means the amount of light that covers a surface, measured by foot-candle or lux.

Illuminating device means the following:

1. *Light fixture types*
    a. *Full cutoff fixture types* — A fixture which, as installed, gives no emission of light above a horizontal plane.
    b. *Floodlights and spotlights* — Fixtures defined as having a full beam width or beam spread of less than 110 degrees.
2. *Lamp types*
    a. *Incandescent lamps* — Lamps which produce light via an electrically heated metallic filament.
    b. *Fluorescent lamps* — Lamps that use fluorescence of a phosphor to produce visible light.

High intensity discharge (HID) lamps mean lamps, which produce visible light directly by the electrical heating or excitation of a gas. Examples of such lighting include, but are not limited to, Metal Halide, High Pressure Sodium, Low Pressure Sodium and Mercury Vapor. Fluorescent lights are not considered HID lighting.

Illumination, concealed means an artificial light source either internal to a sign structure or shielded from public view and from the surrounding properties used to illuminate only the face of a sign and not any area beyond the face.

Illumination, direct means lighting by means of an unshielded light source (including neon tubing) which is effectively visible as a part of the sign, where light travels directly from the source to the viewer's eye.

Illumination, external or indirect means lighting by means of a light source directed at a reflecting surface in a

way that illuminates the sign from the front, or a light source that is primarily designed to illuminate the entire building facade upon which a sign is displayed. Indirect illumination does not include lighting which is primarily used for purposes other than sign illumination; e.g., parking lot lights, or lights inside a building that may silhouette a window sign but are primarily installed to serve as inside illumination.

Illumination, internal means lighting by means of a light source that is within a sign having a translucent background, silhouetting opaque letters or designs, or which is within letters or designs that are made of a translucent material.

Industrial, Heavy means uses engaged in the processing and manufacturing of materials or products predominantly from extracted or raw materials, or a use engaged in storage of, or manufacturing processes using flammable or explosive materials, or storage or manufacturing processes that potentially involve hazardous conditions. Heavy industrial also means those uses engaged in the cleaning of equipment or work processes involving solvents, solid waste or sanitary waste transfer stations, recycling establishments, truck terminals, public works yards, and container storage.

Industrial, light means uses engaged in the manufacture, predominantly from previously prepared materials, of finished products or parts, including processing, fabrication, assembly, treatment, packaging, incidental storage, sales or distribution of products, provided all manufacturing activities are contained entirely within a building and noise, odor, smoke, heat, glare and vibration resulting from the manufacturing activity are contained entirely within the building. Light industrial shall also mean uses such as the manufacture of electronic instruments, preparation of food products, pharmaceutical manufacturing, research and scientific laboratories or the like. Light industrial shall not include uses such as mining and extracting industries, petrochemical industries, rubber refining, and primary metal or related industries.

Infrastructure means those man-made structures which serve the common needs of the population, such as: potable water systems; wastewater disposal systems; solid waste disposal sites or retention areas; storm drainage systems; electric, gas or other utilities; bridges; roadways; bicycle paths or trails; pedestrian sidewalks, paths or trails; and transit stops.

Inn means a building intended and used for occupancy as a temporary abode for individuals who are lodged with or without meals, in which there are less than 12 guest rooms. Integrate means to combine or coordinate separate elements (such as housing, recreation, jobs, and shopping) to provide a harmonious, interrelated whole; organized or structured so that constituent parts function cooperatively.

Integrate means to combine or coordinate separate elements (such as housing, recreation, jobs, and shopping) to provide a harmonious, interrelated whole; organized or structured so that constituent parts function cooperatively.

Intra-neighborhood connections mean connections (such as trails and roads) within the same neighborhood.

Inter-neighborhood connections mean connections (such as trails and roads) between neighborhoods.

Irrigation ditch or *canal* means a channel designed to transport irrigation water.

Junk means scrap brass, iron, lead, tin, zinc; all other scrap metals and the alloys; bones; rags; used cloth, rope, rubber, tinfoil, bottles; old or used machinery of any type; used tools; used appliances; used lumber or crates; building materials; industrial equipment, fabrication of any material; used pipe or pipe fittings; used conduit or conduit fittings; used automobile parts; derelict vehicles, farm and heavy equipment construction vehicles; used tires and other manufactured goods that are so worn, deteriorated or obsolete as to make them unusable in their existing condition.

Junkyard means a building, structure or parcel of land, or portion thereof, used for collecting, displaying,

storing, selling or reselling junk. Junkyards shall not include a recycling facility.
Kennel (small animal) means a facility licensed to house dogs, cats or other household pets and/or where grooming, boarding
or training of animals is conducted as business. Outdoor runs may be allowed when screened from view of adjacent properties and where sound mitigation is established.

Laboratory and/or *research facility* means a facility primarily engaged in scientific research, analysis, production, and/or experimentation of a product or for the research, development, testing, manufacturing, assembling, repair of goods and products. The facilities shall be free of dust, smoke, fumes, odors or unusual vibrations and noise. The waste shall meet the requirements of the appropriate health authority.

Lamp or *bulb* means the light-producing source installed in the socket portion of a luminaire.

Landowner means any owner of a legal or equitable interest in real property, and includes the heirs, successors, and assigns of such ownership interests.

Landscaping means any combination of living plants such as trees, shrubs, plants, vegetative ground cover or turf grasses, and may include structural features such as walkways, fences, benches, works of art, reflective pools or fountains. Landscaping shall also include irrigation systems, mulches, topsoil and soil preparation, re-vegetation and the preservation, protection and replacement of existing trees.

Land improvements means physical changes made to land and/or structure placed on or under the land surface in order to change the natural or preexisting conditions of the land.

Lane means a private street, portion of a roadway delineated for a single line of vehicles; or a secondary means of access to the lots abutting a street and not intended for general traffic circulation.

Laundry and dry-cleaning retail outlet means a laundry or dry-cleaning business which consists primarily of serving retail customers, provided that any laundry and dry-cleaning processing that occurs on the premises is limited to items which are brought directly to the premises by the retail customer.

Legal building site means a lot that can be developed within the provisions of this Code and within other rules and regulations adopted by the Town and/or State of Colorado.

Levee means a manmade structure, usually an earthen embankment, designed and constructed in accordance with sound engineering practices to contain, control or divert the flow of water so as to provide protection from temporary flooding.

Levee system means a flood protection system which consists of a levee or levees, and associated structures, such as closure and drainage devices, which are constructed and operated in accordance with sound engineering practices.

Light pollution means any adverse effect of manmade light including, but not limited to, light trespass, up-lighting, the uncomfortable distraction to the eye, or any man made light that diminishes the ability to view the night sky. Often used to denote urban sky glow.

Light trespass means any light emitted by a luminaire falls where it is not wanted or needed or shines beyond the property on which the luminaire is installed.

Lighting means any or all parts of a luminaire that function to produce light.

Lighting, indirect when applied to the lighting of signs, shall mean reflected light only from a concealed light source outside the sign face which reflects from the sign face only or from the sign face and sign copy.

Limited indoor recreation facility means a place where recreation activities occur completely within an enclosed structure including but not limited to bowling alleys, skating rinks, pool halls, and video and pinball parlors.

Limited outdoor recreation facility means a place with outdoor activities including but not limited to miniature golf, batting cages, water slides, skateboard parks, driving ranges, and go-cart tracks.

Livability refers to the factors related to the long-term wellbeing of individuals and communities. Livability encompasses factors like neighborhood amenities, including parks, open space, walkways, and businesses as well as environmental quality, safety, and health. Additionally, livability considers the availability and quality of public transport, educational institutions, and healthcare facilities. It also considers the overall cultural and social atmosphere of a place, including the presence of diverse recreational activities and community engagement opportunities. All these factors combined create an environment that enhances the overall quality of life for residents and contributes to creating a sense of place.

Live work buildings are used for both living and working. The particular building is officially designated to allow the occupant of the residential portion of the building to operate their business. An example is a professional or business office on the first floor and residential uses on the second floor.

Lot means an area of land, created through the subdivision process, plat or otherwise permitted by law, to be separately owned, used, developed, or built upon. An area of land occupied or intended for occupancy by one main use permitted in this code, including a principal building and its accessory buildings or as otherwise provided in this code. A lot shall meet all minimum requirements as established by this code including but not limited to minimum size and width, and shall have direct access to a public or private street. Also refer to the definition of Outlot and Tract.

Lot, corner means a lot or area of land abutting upon two or more streets at their intersection, or upon two parts of the same street forming an interior angle of less than 135 degrees. All corner lots shall have one front yard, one back or rear yard and two side yards. The Town Planner and Building Official shall designate these yards and will base their decision on the orientation of the structure on the lot and the street to which the structure is addressed to.

Lot depth means the average distance between the front lot line and the rear lot line.

Lot, flag means a lot so shaped and designed that the main building site area is set back from the street on which it fronts and includes a narrow access strip connecting the main building site with the frontage street.

Lot line, front means the property line dividing a lot from a street. On a corner lot only one street line shall be considered as a front line, and the shorter street frontage shall be considered the front line. Where the lot is accessed by an alley or is alley loaded, the front shall be defined as the lot line opposite the alley lot line.

Lot line, rear means the line opposite the front lot line.

Lot, reverse corner means a corner lot having its side street line substantially a continuation of the front lot line of the first lot to its rear.

Lot line, side means any lot lines other than the front lot line or rear lot line.

Lot size means the total horizontal area within the lot lines of a lot; synonymous with area of lot.

Lot width means the distance parallel to the front lot line, measured at the front building setback line. Lot width on a curving front lot line means the distance parallel to the tangent of the front lot line at the building setback

line. The lot width and the lot frontage may have different lengths on an irregularly shaped lot as they are measured at different points on the lot.
Lowest floor means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood-resistant enclosure, usable solely for parking of vehicles, building access or storage, in an area other than a basement area, is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this Chapter.

Lumen means a unit of luminous flux; the flux emitted within a unit solid angle by a point source with a uniform luminous intensity of one candela. One foot-candle is one lumen per square foot. One lux is one lumen per square meter.

Luminaire means the complete lighting unit, including the lamp, the fixture, and other parts.

Luminance means at a point and in a given direction, the luminous intensity in the given direction produced by an element of the surface surrounding the point divided by the area of the projection of the element on a plane perpendicular to the given direction. Units: candelas per unit area. The luminance is the perceived brightness that can be seen, the visual effect of the illuminance, reflected, emitted or transmitted from a surface.

Machine shop means a workshop where power-driven tools are used for making, finishing, or repairing machines or machine parts.

Management Agency means the agency in charge of the "208 Water Quality Plan" in the Berthoud area.

Manager means the Town Manager or Administrator of the Town of Berthoud.

Manufacturing means a business which makes products by hand or by machinery.

Marina means a waterfront establishment where docking, moorings and dry storage is offered for boats and marine sporting equipment. Retail sales of supplies may be included.

Massing means the distribution of the volume of a structure or landscape and the visual weight relationships of the various forms of a structure or landscape to one another and to the structure or landscaping as a whole.

Master plan means a development plan that shows how an entire site is proposed for development in a general fashion including a delineation of proposed construction phases.

Mean sea level means, for purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929 or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced.

Measurement of luminance means a lamp output with the following characteristics:
a. *Total output:* Measurement of total output is in lumens. This should be understood to be the initial lumen value for the lamp.
b. *Illuminance:* Measurements of illuminance are expressed in initial lumens per square foot. (A desktop illuminance of 20 initial lumens per square foot is adequate for most purposes.)
In measuring illuminance, the light detector or meter should be pointed directly at the light source or sources. The intervening light path should be free of obstruction.

Median means an area in the approximate center of a street or highway which is used to separate the directional flow of traffic.

Medical and dental office or *clinic* means an establishment operated by one or more duly licensed members of the human health care professions including, but not limited to, physicians, dentists, chiropractors, psychiatrists

and osteopaths, where patients are not lodged overnight but are admitted for outpatient examination and/or treatment.
Marijuana store, medical means a person licensed pursuant to C.R.S. Title 44, Article 10, to operate a business as described in C.R.S. Section 44-10-501 that sells marijuana to registered patients or primary caregivers defined in section 14 of article XVIII of the state constitution.

Marijuana store, retail has the same meaning as defined in Section 16(2)(n) article XVIII of the state constitution.

Medical marijuana-infused products manufacturer means a person licensed pursuant to C.R.S. Title 12, Article 43.3 to operate a business as described in C.R.S. Section 12-43.3-404.

Marijuana products manufacturer, retail has same meaning as defined in section 16(2)(i) article XVIII of the state constitution.

Marijuana cultivation facility, medical means a person licensed pursuant to C.R.S. Title 12, Article 10 to operate a business as described in C.R.S. Section 44-10-502.

Marijuana cultivation facility, retail has the same meaning as defined in section 16(2)(h) article XVIII of the state constitution.

Marijuana business, medical has the same meaning as defined in C.R.S. Section 44-10-103(35).

Marijuana business, retail has the same meaning as defined in C.R.S. Section 44-10-103(58).

Marijuana business, allowed business as used in this Chapter 30 shall mean collectively and exclusively medical marijuana stores, retail marijuana stores, medical marijuana products manufacturers, retail marijuana manufacturers, medical marijuana cultivation facilities and retail marijuana cultivation facilities and excludes all other medical marijuana businesses and retail marijuana businesses.

Meeting place and place for public assembly means a hall, auditorium or other suitable room or rooms used for the purpose of conducting meetings of the membership and guests of the owner of such structure. The same shall not include commercial endeavors such as commercial movie picture houses, stage productions or the like.

Micro-brewery means any establishment that manufactures malt liquors or fermented malt beverages on-site, including the sale and consumption of such beverages on-site. Micro-brewery can also mean brew pub, where food is permitted to be served for consumption on-site. Breweries and brew pubs are regulated and licensed in accordance with the Colorado Department of Revenue Liquor Enforcement Division.

Mixed use shall mean the development of a lot tract or parcel of land, building or structure with two or more different uses including but not limited to residential, office, retail, public uses, personal service or entertainment uses, designed, planned and constructed as a unit.

Mixed use building means a building designed, planned and constructed as a unit, used partially for residential use and partly for commercial uses including, but not limited to, office, retail, public uses, personal service or entertainment uses.

Mixed use dwelling unit means the dwelling unit in a mixed use building. For purposes of calculating residential density, each dwelling unit shall count as one-half dwelling unit.

Model plans means a set of standard plans for a home.

Modified grid pattern means a grid pattern of streets and blocks adapted to the topography, unique natural

features, environmental constraints, and peripheral open space areas.

Movie Theater: A structure that contains audience seating, on one or more screens and auditoriums, and a lobby with or without a refreshment station. If more than one auditorium/theater will be in one overall structure, they shall share a box office/ticket office, lobby areas, parking facilities, restrooms, concession areas, signs, and other service and maintenance facilities.

Mullion means a slender vertical member dividing the opening for a pair of double doors, sometimes removable to permit the passage of large objects, or also, a vertical member between the lights of a window.

Municipality means an incorporated city or town.

Muntin means a strip of wood or metal that separates and holds panes of glass in a window.

Museum means an institution devoted to the procurement, care, study, and display of objects of lasting interest or value.

Native Seed Area means an area that is planted using broadcast native or drought-tolerant seed mix, resulting in a drought-tolerant turf. These areas have a water dedication requirement of 0.8 acre-feet per acre.

Natural Area as it pertains to the Impact Fee Section of this Chapter shall means an area that (a) is appropriately vegetated and free of weeds; (b) is capable of maintaining the existing vegetation without irrigation; (c) has been dedicated to and accepted by the Town; and (d) is a wetland under the criteria in the Wetlands Delineation Manual utilized by the U.S. Army Corps of Engineers and U.S. Environmental Protection Agency in effect at the time of dedication to the Town. All Natural Areas shall be encumbered by a conservation easement. Natural Areas do not require any irrigation. In order to qualify as a Natural Area, the Developer must pay the Town's fees and expenses incurred in determining whether the area is a wetland and appropriately vegetated, and the Natural Area must be accepted by the Town at the Town's sole discretion by and through the Town Administrator.

Natural Medicine Healing center means a facility where an entity is licensed by the state licensing authority that permits a facilitator to provide and supervise natural medicine services for a participant. Natural Medicine Healing centers are regulated by the Natural Medicine Code, a Section of the Berthoud Land Development Code.

Natural medicine business means any healing center, natural medicine cultivation facility, natural medicine products manufacturer, or natural medicine testing facility, licensed to operate pursuant to the Colorado Natural Medicine Code. Natural Medicine Businesses are regulated by the Natural Medicine Code, a Section of the Berthoud Land Development Code.

Natural preserve/open lands means areas identified on the Town Comprehensive Plan Preferred Land Use map or related maps including but not limited to: parks, bodies of water, the Hwy. 287 buffer area, trail corridors, conservation easements, irrigation ditches, floodplains and flood ways, natural drainage and water ways, significant native trees and vegetation, wildlife travel corridors, special habitat features, remnant native prairie habitat, plains cottonwood galleries, and any wetland greater than one-quarter acre in size.

Neighborhood means a geographical area, the focus of which are residential uses, but also may include a mixture of activities that people need to live. A neighborhood may include a diversity of housing types, schools, parks, shopping and jobs (frequently service-type), and civic buildings.

Neighborhood commercial center means a shopping center which contains businesses that are intended to provide goods and services to the immediate neighborhood (within a one-quarter mile radius).

New construction means structures for which the start of construction or remodeling commenced on or after

the effective date of this Code.

Nightclub means a bar or tavern containing more than 100 square feet of dance floor area.

Nonconforming building means a building or structure, or portion thereof, that does not conform to the regulations of this Code, but that was lawfully constructed under the regulations in force at the time of construction.

Nonconforming sign means a sign which does not conform to the regulations within this Code but was lawfully erected under the regulations in force at the time it was erected.

Nonconforming use means a use that does not conform to the use regulations of this Code, but that was lawfully established under the regulations in force at the time the use was established and has been in regular use since that time.

Noxious weeds means plants that are determined by the State of Colorado, Larimer or Weld County, or the Town as a noxious weed or an alien plant that is aggressively invasive. Refer to the Town's Landscape Design Guidelines.

Off-site improvement means any improvement on property wholly or partly located outside the area of the property being subdivided, whether or not in the same ownership of the entity doing the subdivision.

Oil and gas operation means any structure, facility or activity which is constructed on or disturbs land in association with oil or gas drilling, production or waste treatment and disposal, including but not necessarily limited to wells, tanks or tank batteries, pits, access roads for ingress and egress and pipelines.

Oil or gas well means a well that produces oil or gas.

Open space means any land or water area with its surface open to the sky, which serves specific uses of providing park and recreation opportunities, conserving natural areas and environmental resources and protecting areas of agricultural, archeological or historical significance. Open space shall not be considered synonymous with vacant or unused land. Usable open space shall exclude areas used for off-street parking, off-street loading, service driveways, setbacks from oil and gas wells and their appurtenances, or other hazards to the public, native open areas on steep slopes, floodways, or easements for utilities.

Open space, common means a parcel of land, an area of water, or a combination of land and water within a development designed and intended primarily for the use or enjoyment of residents, occupants and owners of that development.

Open space, functional means open space which is large enough to serve a practical purpose such as recreation, wildlife habitat or preservation of areas of agricultural, archeological or historical significance and shall exclude areas used for off-street parking, off-street loading, service driveways and setbacks from oil and gas wells or their appurtenances, or other hazards to the public.

Open space, public means an open space area conveyed or otherwise dedicated to the Town for public recreational or conservation uses. Public opens spaces are to be unencumbered by oil and gas wells, their appurtenances or other hazards to the public.

Open Water means a body of water, such as a pond or reservoir, whether existing or created and whether for purposes of water storage, aesthetic, or recreation, that has an adequate physical and legal water supply to maintain the open water condition year round, and that has been accepted by the Town for Open Water land use.

Outdoor light fixture means when an outdoor illuminating device, outdoor lighting or reflective surface, luminous tube, lamp or similar device, permanently installed or portable, used for illumination, decoration, or advertisement. Such devices include, but are not limited to, lights used for:

a. parking lot lighting;
b. roadway lighting;
c. buildings and structures;
d. recreational areas;
e. landscape lighting;
f. billboards and other signs (advertising or other);
g. product display area lighting;
h. building or structure decoration; or
i. building overhangs and open canopies.

Outdoor storage means the keeping, in an unenclosed area, of any equipment, goods, junk, material, merchandise or vehicles, including boats, RV's and trailers, in the same place for more than 24 hours. Containers may not be permitted for use as permanent storage or building purposes without site plan and/or building permit approval.

Outlot means an area of land, created through the subdivision process that is not a building lot and for which no building permit shall be issued. An outlot is typically held in common ownership by a homeowner's association or similar and reserved for open space and other public purposes such as utility and/or drainage easements. Also refer to the definition of Lot and Tract.

Owner means any person who alone, jointly or severally with others, or as an agent, trustee, executor or other representative capacity, has legal or equitable title to any property.

Parapet means a low, protective wall at the edge of a terrace, balcony or roof, especially that part of an exterior wall, fire wall, or party wall that rises above the roof.

Parcel means any legally described piece of land under common ownership, whether or not it is platted into one or more lots developed for a single use. A parcel is often created by a subdivision, deed, or other instrument recorded with the appropriate recorder. A parcel may be a Lot, Tract or Outlot or a combination thereof.

Park means an area open to the general public and reserved and usable for recreational, educational or scenic purposes.

Parking area (off-street) means all off-street areas and spaces designed, used, required or intended to be used for the parking, storage, maintenance, service, repair, display or operation of motor vehicles, including driveways or access ways in and to such areas, but not including any outdoor storage area used principally as a "recreational vehicle, boat or truck storage" use, storage areas for landscaping and other bulk items or public streets and rights-of-way.

Parking garage means an off-street parking area within a building.

Parking lot means an outdoor off-street parking area or vehicular use area.

Parking space means an area of at least 200 square feet with dimensions of ten feet by 20 feet exclusive of driveways, aisles or maneuvering areas. All parking spaces shall have direct unobstructed access to a street, drive aisle or alley.

Parkway means that portion of the public right-of-way between the curb line and the adjoining property line.

Partially shielded light means when the bulb of the fixture is shielded by a translucent siding and the bulb is not visible at all. Light may be emitted at the horizontal level of the bulb.

Passenger terminal or *park-n-ride* means a parking lot with public transport connections that allows commuters to leave their vehicles and transfer to a bus, rail system (rapid transit, light rail, or commuter rail), or carpool.

Pergola is a structure of parallel colonnades supporting an open roof of beams and crossing rafters or trellis work.

Permanent monument means any structure of masonry and/or metal permanently placed on or in the ground, including those expressly placed for surveying reference.

Person means a natural person, joint venture, stock company, partnership, association, club, company, corporation, business, trust or organization or the manager, lessee, agent, representative, officer or employee of any of the foregoing entities, acting as a unit.

Personal and business service shops means shops primarily engaged in providing services generally involving the care of the person or such person's appearance or rendering services to business establishments such as laundry or dry-cleaning retail outlets, portrait/photographic studios, beauty or barber shops, employment service, or mailing and copy shops.

Phase means a portion of property that is being platted and engineered for development at one time.

Pilaster means a rectangular support or pier treated architecturally as a column, with a base shaft and capital.
Planned Unit Development (PUD) Overlay means an overlay zone that may be used to modify permitted or conditional land uses and specific standards including lot size, building bulk, gross density, and lot coverage or floor area ratios. The PUD overlay is not a recognized development method in the Town of Berthod as of the adoption of Ordinance 1329 See the Zoning Section of this Chapter for additional information regarding existing PUD Districts. .

Places of assembly (neighborhood scale) means a facility smaller than 5,000 square feet in size used for social, educational, worship or recreational purposes.

Place of assembly (medium) means a facility, greater than 5,000 square feet and less than 15,000 square feet in size used for social, educational, worship, or recreational purposes.

Places of assembly (large) means a facility greater than 15,000 square feet in size used for social, educational, worship or recreational purposes.

Plant nursery and greenhouse means any land or structure used primarily to raise trees, shrubs, flowers or other plants for sale or for transplanting.

Plat means a map of certain described land showing property and lot boundaries, location of public utilities, easements and other information prepared in accordance with the requirements of this Code, approved by the Town and recorded in the records of the respective County Clerk and Recorder.

Preliminary Plat means a development review process outlined in this Chapter.

Prime farmland means land that has the best combination of physical, water supply and chemical characteristics for producing food, feed, forage, fiber and oilseed crops, and other agricultural crops with minimum inputs of fuel, fertilizer, pesticides, and labor and without intolerable soil erosion, as determined by the Secretary of Agriculture. Prime farmland includes land that possesses the above characteristics but is being

used currently to produce livestock and timber. It does not include land already in or committed to urban development or water storage.

Principal use means the main use of land or of a structure as distinguished from a subordinate or accessory use.

Private school means a school that does not derive its support, in whole or in part, from moneys raised by a city, town, state, county, or school district tax.

Professional office means an office for professionals such as physicians, dentists, lawyers, architects, engineers, artists, musicians, designers, teachers, accountants and others who through training are qualified to perform services of a professional nature and where no storage or sale of merchandise exists, except as accessory to the professional services.

Program deficiency means a defect in a community's floodplain management regulations or administrative procedures that impairs effective implementation of those floodplain management regulations or of the National Flood Insurance Program standards.

Proof of ownership means ownership as specified in a current title insurance commitment, title policy, certification of title issued by a title insurance company licensed by the State of Colorado or recorded deed or copy of current property taxes.

Property means all real property subject to development regulation by the Town.

Property line means the boundary of any lot, parcel or tract as the same is described in the conveyance of such property to the owner; and does not include the streets or alleys upon which the said lot, parcel or tract abuts.

Property Owner for purposes of the Use Specific Standards for Short Term Rentals means a person who owns property, and any person related to the property owner

Public areas means streets, parks, open spaces and other property designated or described for public use on a map or plat approved by the Town and for which fee title is vested in the Town or other public entity.

Public facilities means those constructed facilities, including but not limited to, transportation systems or facilities, water systems or facilities, wastewater systems or facilities, storm drainage systems or facilities, fire, police and emergency systems or facilities, electric, gas, telecommunication utilities or facilities, and publicly owned buildings or facilities.

Public hearing means a meeting called by the Board of Trustees, Planning Commission, or the Board of Adjustment for which public notice has been given and which is held in a place at which interested parties may attend to hear issues and to express their opinions.

Public improvement means any drainage ditch, roadway, parkway, sidewalk, pedestrian way, tree lawn, landscaped open space, off-street parking area, lot improvement or other facility which benefits the public.

Public school means a school that derives all or a portion of its support from moneys raised by a general state, county or school district tax and is controlled and operated by the Thompson R2J or Weld County School District.

Public utility means a common carrier supplying electricity, wire telephone service, natural gas, water, wastewater or storm water service or similar public services, but shall not include railroads or other forms of rail mass transit or depots or terminals supporting the same; or wireless telecommunication facilities. A public utility includes main lines, transmission lines and substations.

Push cart means a mobile vending cart, pushcart or trailer that is not motorized or attached to a vehicle for towing and that does not exceed ten feet in length, four feet in width or eight feet in height. A pushcart may be used to cook and prepare food for vending or to serve commissary prepared, ready-to-eat or packaged food in individual servings.

Raw water means water rights acceptable to the Town for domestic purposes after treatment, or water rights acceptable to the Town that may be used for irrigation of public facilities.

Raw Water Credit means the number of S.F.E.s for which dedication credits are certified by the Town in exchange for cash in lieu of water dedication payments or water rights dedications to the Town.

Recessed light means when a light is built into a structure or portion of a structure such that the light is fully cut-off and no part of the light extends or protrudes beyond the underside of a structure or portion of a structure.

Recreational vehicle (RV) means a vehicle primarily designed as temporary living quarters for recreational, camping or travel use, which either has its own motive power or is drawn by another vehicle. The following shall be considered a recreational vehicle:

a. *Camping trailer* or *tent trailer* means a folding structure, constructed of canvas, plastic or similar water repellent material designed to be mounted on wheels and designed for travel and recreation.
b. *Motorized camper, motor home, recreational conversion van* or *bus* means a recreational vehicle consisting of a portable, temporary dwelling to be used for travel, recreation and vacation uses, and constructed as an integral part of a self-propelled vehicle.
c. *Pick-up camper* means an enclosure designed to be mounted on or loaded into a pick-up truck chassis for use as a temporary dwelling for travel and recreation.
d. A *tent*, meaning a portable or temporary cover or shelter, with or without side panels, which is supported by poles and is made of canvas, plastic or similar materials.
e. A *travel trailer*, meaning a towed vehicle designed as a temporary dwelling for travel and recreation. Travel trailer, self-contained, means a trailer which can operate independently of connections to sewer, water and electric systems. It contains a water-flushed toilet, lavatory, shower or bath and kitchen sink, all of which are connected to water storage and sewage holding tanks located within the trailer.

Recreational vehicle park means a parcel of land specifically developed for locating only recreational vehicles on lots on a short-term basis.

Recycling facility means a building or lot used for the collection and/or processing of recyclable material. Processing shall mean the preparation of material for efficient shipment by such means as baling, compacting, flattening, grinding, crushing, mechanical sorting or cleaning. Such a facility, if entirely enclosed within a building or buildings, shall be considered a warehouse.

Redevelopment means any proposed expansion, addition, or major façade change to an existing building, structure, or property.

Related to means, with respect to a natural person, the spouse of the individual; the domestic partner of an individual, a brother, brother-in-law, sister, or sister-in-law of the individual; an ancestor or lineal descendant of the individual or the individual's spouse or domestic partner; and any other relative, by blood or marriage, of the individual or the individual's spouse or domestic partner who shares the same home with the individual

Related to means, with respect to a business entity, if a partnership, all the partners of the partnership who are making an application for a license under this article. If any other type of business entity, all the officers, directors, and owners of at least ten percent of the entity making an application for a license under this article

Resource extraction, processing and sales means removal or recovery by any means whatsoever of sand, gravel, soil, rock, minerals, mineral substances or organic substances other than vegetation, from water or land on or

beneath the surface thereof, exposed or submerged.

Restaurant, drive-through means any establishment in which the principal business is the sale of foods and beverages to the customer in a ready-to-consume state and in which the design or principal method of operation of all or any portion of the business is to allow food or beverages to be served directly to the customer in a motor vehicle without the need for the customer to exit the motor vehicle.

Restaurant, fast food means any establishment in which the principal business is the sale of food and beverages to the customer in a ready-to-consume state, and in which the design or principal method of operation includes the following characteristics.

a. Food and beverages are usually served in paper, plastic or other disposable containers;
b. The consumption of food and beverages is encouraged or permitted within the restaurant building, within a motor vehicle parked upon the premises, or at other facilities on the premises outside the restaurant building; or the food and beverages are available for carry-out or pick up from drive-through facilities.

Restaurant, standard means any establishment in which the principal business is the sale of food and beverages to customers in a ready-to-consume state; where fermented malt beverages, and/or malt, special malt or vinous and spirituous liquors may be produced on the premises as an accessory use; and where the design or principal method of operation includes one or both of the following characteristics:

a. Customers are served their food and/or beverages by a restaurant employee at the same table or counter at which the items are consumed; or
b. Customers are served their food and/or beverages by means of a cafeteria-type operation where the food or beverages are consumed within the restaurant building.

Rest stop means a roadside facility safely removed from traffic with parking and such facilities for motorists including information and restrooms.

Resubdivision means the changing of any existing lot or lots, street rights-of-way or easements of a subdivision plat previously recorded with the Larimer or Weld County Clerk and Recorder.

Retail establishment, large means a retail establishment, or any combination of retail establishments in a single building, occupying a total of more than 50,000 gross square feet of floor area, except that no supermarket shall be deemed to be a large retail establishment.

Retail establishment, small means a retail establishment, or any combination of retail establishments in a single building, occupying a less than 50,000 gross square feet of floor area.

Retail and supply yard establishments with outdoor storage means any use where building supply products such as lumber or landscape materials are offered for sale, and are displayed and stored in an unenclosed area.

Retention basin means a pond, pool or basin used for permanent storage of water runoff.

Right-of-way means a strip of land occupied or intended to be occupied by a street, crosswalk, railroad, road, electric transmission line, oil or gas pipeline, water main, sanitary or storm sewer main, irrigation ditch or for another special use. The usage of the term "right-of-way" for land platting purposes shall mean that every right-of-way established and shown on a final plat is to be separate and distinct from the lots or parcels adjoining such right-of-way and not included within the dimensions of such lots or parcels. Rights-of-way intended for streets, crosswalks, water mains, sanitary sewers, storm drains, or any other use involving maintenance by a public agency shall be dedicated to that public use on the plat on which such right-of-way is established.

Roadside or temporary retail stand/tent means a temporary structure not permanently affixed to the ground and is readily removable in its entirety, which is used solely for the display or sale of farm products produced on the premises upon which such roadside stand is located. There shall be no more than one roadside stand on any

one property. A building permit is required as necessary.

Roof, gable means a roof sloping downward in two parts from a central ridge, so as to form a gable at each end.

Roof, hip means a roof having sloping ends and sides meeting at an inclined projecting angle.

Sales of farm implements, heavy equipment, mobile/manufactured homes – An establishment for the sale of farm implements, heavy equipment or manufactured homes without repair facilities.

Salvage or *wrecking yard* means a place where motor vehicles and parts are wrecked, disassembled, repaired and resold, a place where secondhand goods including waste paper, bottles, automobile tires, clothing, other scrap materials, and salvage are collected to be stored and a place where used lumber and used building materials are stored for sale or resale.

Sanitary facilities mean toilets, urinals, lavatories, showers, utility sinks and drinking fountains, and the service buildings containing these units.

Sanitary waste station means a facility used for removing and disposing of waste from self-contained camping vehicle sewage holding tanks.

Schools - public and private (preschool – grade 12) means an institution for the teaching of children on a site that is operated as a school, and which contains all improvements required by local, state or federal regulations necessary for general academic instruction.

Schools - colleges, vocational and technical training means an institution for the teaching of adults including colleges, professional schools, dance schools, business schools, trade schools, art schools, and similar facilities on a site that is operated as a school, and which contains all improvements required by local, state, or federal regulations necessary for general academic instruction.

Searchlight means an apparatus used to project a beam of light.

Service building means a structure housing toilet, lavatory, bath, laundry, service sink and other such sanitary facilities as may be required.

Setback means the required unoccupied space between the nearest projection of a structure and the property line of the lot on which the structure is located. Setback is measured from the lot line.

Setback, front yard means the distance a building or structure must be placed from the front lot line.

Setback, rear yard means the distance a building or structure must be placed from the rear lot line.

Setback, side yard means the distance a building or structure must be placed from the side lot line.

Sexually-oriented or *adult-oriented use* means a use of property where the principal use, or a significant or substantial adjunct to another use of the property, is the sale, rental, display or other offering of live entertainment, dancing or material which is distinguished or characterized by its emphasis on depicting, exhibiting, describing or relating to "specified sexual activities" or "specified anatomical areas" as the primary attraction to the premises, including, but not limited to:

a. *Adult arcade* means any place to which the public is permitted or invited wherein coin-operated or slug-operated or electronically, electrically or mechanically controlled still or motion picture machines, projectors or other image-producing devices are maintained to show images to five or fewer persons per machine at

any one time, and where the images so displayed are distinguished or characterized by the depicting or describing of specified sexual activities or specified anatomical areas.

b. *Adult bookstore, adult novelty store* or *adult video* means a commercial establishment which devotes a significant or substantial portion of its stock-in-trade or interior floor space to, or has as one of its principal business purposes, the sale, rental or viewing, for any form of consideration, of (a) any books, magazines, periodicals or other printed matter or photographs, films, motion pictures, videocassettes, slides, or other visual representations which are characterized by the depiction or description of specified sexual activities or specified anatomical areas, or (b) any instruments, devices or items which are designed or intended for use with or in specified sexual activities.

c. *Adult cabaret* means a nightclub, bar, restaurant, concert hall, auditorium or similar commercial establishment which features:

   i. Persons who appear in a state of nudity;

   ii. Live performances which are characterized by the exposure of specified anatomical areas or by specified sexual activities; or

   iii. Films, motion pictures, video cassettes, slides or other photographic reproductions which are characterized by the depiction or description of specified sexual activities or specified anatomical areas.

d. *Adult motel* means a hotel, motel or similar commercial establishment which offers private rooms to the public and provides patrons live performances or closed-circuit television transmissions, films, motion pictures, video cassettes, slides or other photographic reproductions which are characterized by the depiction or description of specified sexual activities or specified anatomical areas and has a sign visible from a public right-of-way which advertises the availability of this adult type of photographic reproductions.

e. *Adult motion picture theater* means a commercial establishment which is distinguished or characterized by showing of films, motion pictures, videocassettes, slides or similar photographic reproductions with an emphasis on depicting or describing specified sexual activities or specified anatomical areas which are regularly shown for any form of consideration.

f. *Adult theater* means a theater, concert hall, auditorium or similar business which, for any form of consideration, regularly features persons who appear in a state of nudity or live performances which are characterized by the exposure of specified anatomical areas or by specified sexual activities.

g. *Adult photo studio* means any establishment which, upon payment of a fee, provides photographic equipment and/or models for the purpose of photographing "specified anatomical areas."

h. *Commercial establishment with respect to the regulation of sexually oriented businesses* may have other principal business purposes that do not involve the depicting or describing of specified sexual activities or specified anatomical areas and still be categorized as a sexually oriented business. Such other business purposes will not serve to exempt such commercial establishments from being categorized as a sexually oriented business so long as one of its principal business purposes is the offering for sale or rental for consideration the specified materials which depict or describe specified sexual activities or specified anatomical areas. The term commercial establishment includes clubs, fraternal organizations, social organizations, civic organizations or other similar organizations with paid memberships.

i. *Nude model studio* means any place where a person who appears in a state of nudity or displays specified anatomical areas is provided for money or any form of consideration to be observed, sketched, drawn, painted, sculpted, photographed or similarly depicted by other persons.

j. *Nudity or state of nudity* means:

   i. The appearance of human bare buttock, anus, male genitals, female genitals or the areola or nipple of the female breast; or

   ii. A state of dress which fails to opaquely and fully cover human buttocks, anus, male or female genitals, pubic region or areola or nipple of the female breast.

k. *Peep booth* means a viewing room, other than a private room, of less than 150 square feet of floor space upon the premises of a sexually oriented business where there are exhibited photographs, films, motion pictures, video cassettes or other video reproductions, slides or other visual representations which depict or describe specified sexual activities or specified anatomical areas.

l. *Private room* means a room in an adult motel that is not a peep booth, has a bed in the room, has a bath in the room or adjacent to the room, and is used primarily for lodging

m. *Sexual encounter establishment* means a business or commercial establishment which, as one of its primary business purposes, offers for any form of consideration, a place where two or more persons may congregate, associate or consort for the purpose of specified sexual activities or the exposure of specified anatomical areas, when one or more of the persons exposes any specified anatomical area.

n. *Sexually oriented business* means an adult arcade, adult bookstore, adult video store, adult cabaret, adult motel, adult motion picture theater, adult theater, nude model studio, sexual encounter establishment or other similar business and includes:
   i. The opening or commencement of any sexually oriented business as a new business;
   ii. The conversion of an existing business, whether or not a sexually oriented business, to a sexually oriented business;
   iii. The addition of any sexually oriented business to any other existing sexually oriented business;
   iv. The relocation of any sexually oriented business; or
   v. The continuation of a sexually oriented business in existence on the effective date of the initial ordinance codified herein.

o. *Specified anatomical areas* means:
   i. Less than completely and opaquely covered: human genitals, pubic region, buttocks, and female breast below a point above the top of the areola.
   ii. Human male genitals in a discernibly turgid state even if completely and opaquely covered.

p. *Specified sexual activities* means acts, simulated acts, exhibitions, representation, depictions or descriptions of:
   i. Human genitals in a state of sexual stimulation or arousal.
   ii. Fondling or other erotic touching of human genitals, pubic region, buttocks or female breast.
   iii. Intrusion, however slight, of any object, any part of an animal's body, or any part of a person's body into the genital or anal openings of any person's body or into the body of an animal.
   iv. Cunnilingus, fellatio, anilingus, masturbation, bestiality, lewd exhibition of genitals or excretory function.
   v. Flagellation, mutilation or torture for purposes of sexual arousal, gratification or abuse.

q. *Stage* means a raised floor or platform at least three feet above the surrounding floor measured perpendicularly from the edge of the stage to the surrounding floor and at least 36 square feet in area.

Shielded light means when the light emitted from the fixture is projected below a horizontal plane running through the lowest point of the fixture where light is emitted. The bulb is not visible with a shielded light fixture, and no light is emitted from the sides of the fixture. Also considered a full cut-off fixture.

Shopping center means a group of retail and service establishments located in a complex which is planned, developed, owned or managed as a unit, with off-street parking provided on the property.

Side loaded garage means a garage that is oriented so that the garage doors are perpendicular to the front street.

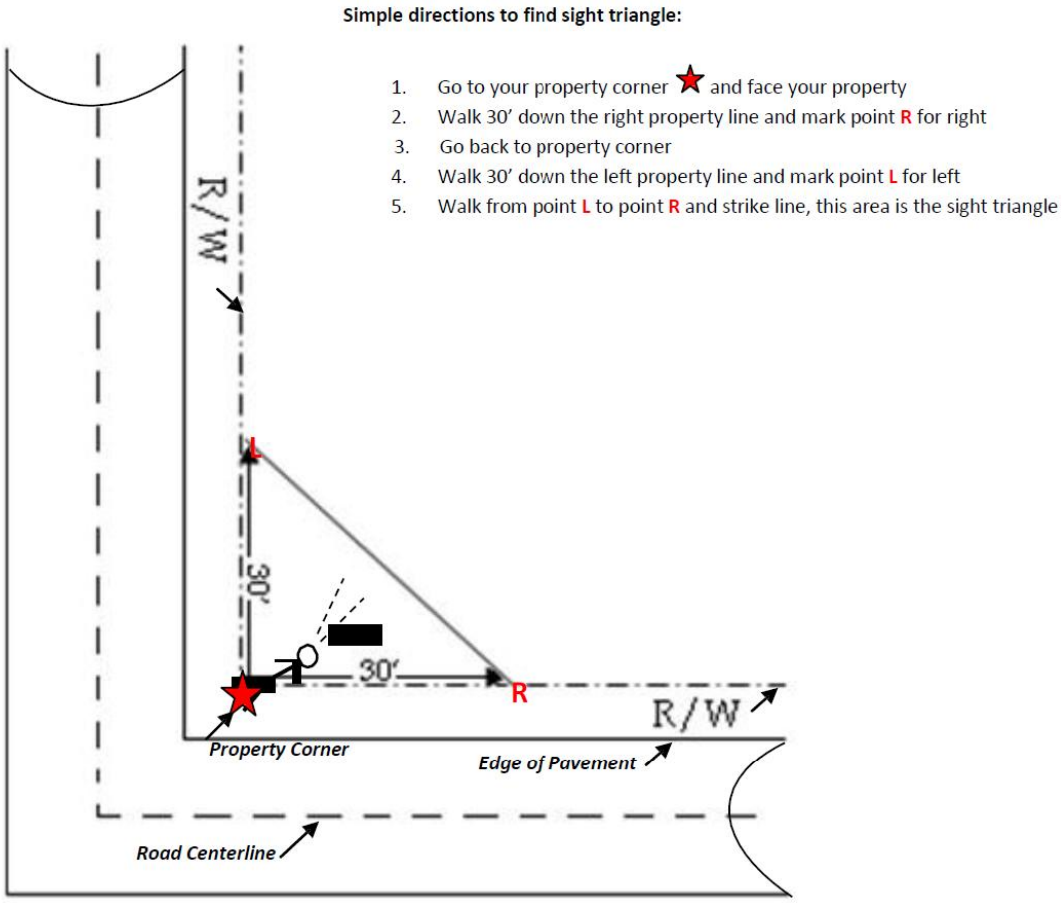
Sidewalk means the hard surface path within the street right-of-way for use by pedestrians and/or bicyclists.

Short-term Rental means a principal dwelling rented to transient guests who are part of one party for short-term lodging (30 days or less) when not occupied by the owner/operator. The term “party” as used in this definition shall mean one or more persons who stay at a short-term rental as a single group pursuant to a single reservation and payment.

a. Maximum Number of Guests: A Short-term Rental shall be limited to 10 or fewer guests who are part of one party or single group of renters.

Sight distance triangle means the area defined by the intersection of any two right-of-way lines of streets or railroads and a straight line intersecting those two right-of-way lines at points 30 feet from the intersection, no obstruction to vision between a height of two and one-half feet and 12 feet above the imaginary plane defined by those three points of intersection permitted, at the plane of the street. This includes structures, walls,

fences, shrubbery or trees except that shade trees will be permitted where all branches are not less than eight feet above the street level.



Sign means any device that is sufficiently visible to persons not located on the lot where the device is located, affixed or placed on a structure, land, or produced by painting on or posting or placing any painted, lettered, pictured, figured or colored material on any building structure or surface.

Sign, abandoned means a sign, including sign face and supporting structure which is unsafe, constitutes a hazard to safety or health by reason of inadequate maintenance, dilapidation, or obsolescence and/or is not kept in good repair; or which contains no sign copy on all sign faces for a continuous period of three months.

Sign, animated means a sign having an intermittent or continuing variation in the physical position of any part of the device, except such variations necessary for displaying time-of-day information or temperature information.

Sign, awning means a sign which is painted, stitched, sewn or stained onto the exterior of an awning.

Sign, banner means any sign intended to be hung either with or without frames, possessing characters, letter, illustrations or ornamentations applied to paper, plastic, vinyl or fabric of any kind.

Sign, canopy means a sign that is permanently affixed to a roofed shelter attached to and supported by a building, by columns extending from the ground or by a combination of a building and columns.

Sign, directional means any sign that is designed and erected for the purpose of providing direction and/or

orientation for pedestrian or vehicular traffic.

Sign, handheld means a temporary sign held, suspended or supported by a person. Handheld signs do not include handheld signs used for traffic control or safety purposes. Also known as a human directional, sign spinner, sign twirler or sign twister sign.

Sign, incidental means a small sign affixed to a residential or non-residential building or structure, machine, equipment, fence, gate, wall, gasoline pump, public telephone, or utility cabinet.

Sign, monument means a permanent freestanding sign supported by, or integrated into a base or pedestal at least two-thirds the dimension of the width and thickness of the sign it supports.

Sign, freestanding means a sign which is supported by one or more columns, uprights, poles or braces extended from the ground, or which is erected on the ground.

Sign, off-premises means a sign advertising a business, person, activity, good, products or services not Provided on the site upon which the sign is located, or that directs persons to any location not on that site.

Sign, permanent means any sign constructed of durable materials and affixed, lettered, attached to or placed upon a fixed, non-movable, non-portable supporting structure.

Sign, projecting means a sign supported by a building wall and projecting more than 12 inches from that wall. Also known as a blade sign.

Sign, public means a sign erected by the Town or by any federal, state or county government agency, including but not limited to traffic control and safety signs.

Sign, roof means a sign erected above the highest point of the coping of a flat roof; or to the deck line of a mansard roof; or to the average height of a gable, pitched or hipped roof. Also, any sign mounted on a pitched or sloping wall and extending higher than the lowest portion of the adjoining roof shall constitute a roof sign.

Sign, sidewalk means a movable advertising or business ground side constructed in such a manner as to form an "A" or a tent-like shape, hinged or not hinged at the top, with each angular face held at an appropriate distance by a supporting member.

Sign, site means a temporary freestanding sign constructed of vinyl, plastic, wood or metal and designed or intended to be displayed for a limited period of time on a site with an active listing for sale or for rent, or on properties with active building permits, e.g., a construction site.

Sign, special event means a temporary sign directing attention to an activity of limited duration.

Sign, temporary means any sign based upon its materials, location and/or means of construction, e.g., light fabric, cardboard, wallboard, plywood, paper or other light materials, with or without a frame, intended or designed to be displayed for a limited period of time.

Sign, time and/or temperature means a sign displaying the time and/or temperature and capable of being viewed from any public right-of-way, parking area, or neighboring property.

Sign, vehicular means a sign displayed on a truck, bus, trailer or other vehicle which is being operated or stored in the normal course of a business, such as signs which are located on moving vans, delivery trucks, rental trucks and trailers and the like, provided the primary purpose of such vehicles is not for the display of signs and provided they are parked or stored in areas appropriate to their use as vehicles.

Sign, wall means any sign printed on, painted on, incorporated in or affixed to the building wall, or any sign consisting of cut-out letters or devices affixed to the building wall with no background defined on the sign other than the building wall itself.

Sign, wall accessory means a sign that has less importance and prominence than the main sign on the wall in size, location, and design emphasis.

Sign, window means a sign that is painted on, applied or attached to a window or that can be read through the window from the public right-of-way.

Sign, yard means a temporary freestanding sign constructed of paper, vinyl, plastic, wood, metal or other comparable material, and designed or intended to be displayed for a limited period of time on a lot containing one or more existing permanent structures.

Significant wildlife habitat and migration corridors are areas designated by the Colorado Division of Wildlife and/or the Colorado Natural Diversity Information Source (www.ndis.nrel.colostate.edu) as areas of landscape that provide food, cover and water sufficient to meet the needs of a given species to survive and reproduce.

Single Family Equivalent Unit ("SFE" or S.F.E.") means a number related to the volume of water necessary to meet the demand and use requirements including systems losses and consumptive use requirements, of an average single family dwelling unit. Further information is found in the Water Right Dedication Requirements Section of this Code.

Single room occupancy boarding house means a housing type consisting of one room, often with cooking facilities and with private or shared bathroom facilities.

Site plan means a scale drawing of a lot, showing the actual measurements, the size and location of any existing or proposed buildings, the location of the lot in relation to abutting streets, and other details such as parking areas, access points, landscaped area, building areas, setbacks from lot lines, building heights, floor areas, densities, utility locations, and easements.

Site specific development plan shall mean and be limited to the Final Plat of a subdivision, or a a Use by Special Review when approved as a site specific development plan by the Planning Commission or Board.

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Split garages means having at least two separate garages that are oriented in different directions.

Spotlight or *floodlight* means any lamp that incorporates a reflector or a refractor to concentrate the light output into a directed beam in a particular direction (see definition for floodlight).

Staff means a full or part-time employee of the Town. Staff may also include professional firms and/or persons

designated by the Town to act within a certain capacity including legal, engineering, planning, code enforcement, inspection and other professional fields.

Start of construction for structures means the date the building permit was issued, provided that the actual start of construction, repair, reconstruction, placement or other improvement was within 180 days of the building permit issuance date. The actual start means the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure.

Start of construction except for start of construction for structures means the date the grading permit was issued, provided that the actual start of construction means the first activities of land preparation, such as clearing, grading and filling, installation of streets and/or walkways.

Storage facilities - enclosed means a building or a group of buildings, not consisting of containers as defined herein, comprised of separate, individual self-storage units divided from the floor to ceiling by walls, each with an independent entrance from the exterior of the building and that are designed to be rented or leased on a short-term basis to the general public for private storage of personal goods, materials and equipment.

Storage facilities - outdoor means property for use as storage for RV's, boats, trailers, etc. outdoors screened from adjacent properties. The facility shall be free of dust, smoke, fumes, odors, or unusual vibrations and noise. There shall be no waste disposal on site.

Street means a public thoroughfare which affords the principal means of vehicular access to abutting property. The term includes public or private streets.

Street, arterial means a street as described in the Design Standards section of this Chapter.

Street, collector means a street as described in the Design Standards section of this Chapter.

Street, local means a street as described in the Design Standards section of this Chapter.

Street, rural means a street as described in the Design Standards section of this Chapter.

Street furniture means constructed objects, such as outdoor seating, kiosks, bus shelters, sculpture, tree grids, trash receptacles, fountains and telephone booths, that have the potential for enlivening and giving variety to streets, sidewalks, plazas, and other outdoor spaces open to and used by the public.

Streetscape means the distinguishing character of a particular street, within the public right-of-way, including paved materials, and the adjacent space extending along both sides of a street including landscaping, sidewalks, medians, lighting, street furniture, and signage.

Structure means a combination of materials to form a construction for use, occupancy or ornamentation whether installed on, above or below the surface of land or water.

Subdivider or *developer* means any person, partnership, joint venture, limited liability company, association or corporation who participates as owner, promoter, developer or sales agent in the planning, platting, development, promotion, sale, or lease of a development.

Subdivision means the platting of a lot or the division of a lot, tract or parcel of land into two or more lots, plots or sites.

Subsidence means a local mass movement that involves the downward settling or sinking of the solid Earth's surface. Subsidence may be due to natural geologic processes or man's activity such as coal mining.

Substantial damage means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would be equal to, or exceed, 50 percent of the market value of the structure before it was damaged.

Substantial improvement means any repair, reconstruction or improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure either:

a. Before the improvement or repair is started; or
b. If the structure has been damaged and is being restored, before the damage occurred.
c. For the purpose of this definition, substantial improvement is considered to occur when the first alteration of any wall, ceiling, floor or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. Substantial improvements shall be calculated cumulatively over a period of the previous ten years.

The term does not, however, include either:

d. Any project for improvement of a structure to comply with existing state or local health, sanitary or safety code specifications which are solely necessary to assure safe living conditions; or
e. Any alteration of a structure listed on the National Register of Historic Places or the State Inventory of Historic Places.

Supplemental Irrigation Water means additional potable water which will be required for irrigation at times when water is not available through a non-potable irrigation system.

Swing-in garage means a garage that is oriented so that the garage doors are perpendicular to the street.

Tandem garage means a garage that allows for the parking of one car in front of another.

Tandem parking means parking two cars in a driveway or parking space so that one car is right in front of the other and the front car cannot move until the back car is moved.

Tavern see "Bar or tavern".

Technical Review Committee (TRC) means the committee established to review development proposals and subdivision applications on behalf of the Town.

Temporary business or use means a business or use commonly recognized as being conducted for regularly scheduled or occurring portions of a year — not to exceed four consecutive months. Examples of a temporary business or use include, but are not limited to, Christmas tree sale lots, farmer's markets, circuses, carnivals, new home sales operations, etc. and shall obtain a vendor license, as applicable. A temporary business or use shall not include continuing a nonconforming building or use.

Temporary directional sign means a free-standing sign giving direction to an open house, house for sale, garage sale or a temporary business.

Temporary lighting means lighting that is intended to be used for a special event for seven days or less.

Title commitment means formal documentation from a title insurance company licensed by the State of Colorado listing the name of the owner of the property under consideration, the legal description of the property and any encumbrances of the property such as easements, rights-of-way, liens, or mineral interests.

Tourist facility means an establishment set up to primarily provide local tourist information to visitors.

Town means the Town of Berthoud, a municipal corporation of the State of Colorado. The Town may act through the Board or an official of the Town specifically authorized to perform the act.

Town Administrator means the Town Administrator of the Town of Berthoud, Colorado.

Tract means an area of land, created through the subdivision process that can be legally sold but cannot be developed until further legal subdivision. Tracts are typically identified for future development or investment purposes. Also refer to the definition of Lot and Outlot.

Tree strip means a strip of landscaping within the right-of-way, generally between the street and an adjacent sidewalk.

Truck depot means an establishment engaged primarily in the fueling, servicing, repair or parking of tractor trucks or similar heavy commercial vehicles, including the sale of accessories and equipment for such vehicles. A truck stop may also include overnight accommodations, showers or restaurant facilities primarily for the use of truck crews.

Undermining means land that has been mined under the surface of the ground.

Uplighting means lighting that is directed in such a manner as to shine light rays above the horizontal plane.

Use by right means a use that is permitted by the zoning district regulations per the Land Use Table found in this Chapter.

USGS datum means United States Geological Survey basis of elevations.

Vacant land means land that does not have structures or other development on it.

Variance means a grant of relief from the requirements of this Code which permits construction in a manner that would otherwise be prohibited by this Code.

Vegetation means plants growing in a place, including, but not limited to trees, shrubs, vines, grasses, and groundcover.

Vehicle trip means a single or one-way vehicle movement to or from a property or study area. Vehicle trips can be added together to calculate the total number of vehicles expected to enter and leave a specific development or site over a designated period of time.

Vested property right means the right to undertake and complete the development and use of property under the terms and conditions of a site specific development plan approved as provided in this Code.

Veterinary hospital means any facility which is maintained by or for the use of a licensed veterinarian in the diagnosis, treatment or prevention of animal diseases.

Veterinary facilities, small animal clinic means any facility maintained by or for the use of a licensed veterinarian in the diagnosis, treatment or prevention of animal diseases wherein the animals are limited to dogs, cats or other comparable household pets and wherein the overnight care of said animals is prohibited except when necessary in the medical treatment of the animal.

Veterinary facilities, large animal clinic means any facility maintained by or for the use of a licensed veterinarian in the diagnosis, treatment or prevention of animal diseases wherein the animals include those larger than dogs, cats or other comparable household pets, including but not limited to goats, horses, cattle, and others and wherein the overnight care of said animals is prohibited except when necessary in the medical treatment of the animal.
Walkable means a distance of one-fourth mile or within a five to ten minute walk.

Walkway means:
a. A right-of-way dedicated to public use that is not within a street right-of-way, to facilitate pedestrian access through a subdivision block by means of a hard surface path; or
b. Any portion of a parking area restricted to the exclusive use of pedestrian travel.

Walkway, connecting means:
a. Any street sidewalk; or
b. Any walkway that directly connects a building entrance(s) to a sidewalk adjoining a street sidewalk, and connects other origins and destinations for pedestrians, including but not limited to commercial establishments, schools, parks, dwellings, work places and transit stops, without requiring pedestrians to walk across parking lots or driveways, around buildings or following parking lot outlines which are not aligned to a logical route.

Warehouse and distribution means storage, wholesale, and distribution of manufactured products, supplies or equipment, including accessory offices or showrooms, including incidental retail sales, but excluding bulk storage of materials that are inflammable or explosive or that create hazardous or commonly recognized offensive conditions.

Warehousing means a business which stores or stocks merchandise or commodities.

Water right means a decreed right to use in accordance with its priority a certain portion of the waters of the State by reason of the appropriation of the same. It shall include both direct flow and storage rights. Water right shall also be used in the context of water right dedications to include allotment contracts with the Northern Colorado Water Conservancy District and its Municipal Subdistrict.

Water surface elevation means the height, in relation to the NGVD of 1929 (or other datum where specified) of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.

Wetland means lands as defined by Federal standards where there is a transition between terrestrial and aquatic systems, where the water table is usually at or near the surface, or the land is covered by shallow water.

Workshop and custom small industry means a facility wherein goods are produced or repaired by hand, using hand tools or small-scale equipment, including small engine repair, furniture making and restoring, upholstering, restoration of antiques and other art objects, or other similar uses, with or without sales occurring on site.

Yard means that portion of the open area on a lot extending open and unobstructed from the ground upward from a lot line for a depth or width specified by the regulations for the zone district in which the lot is located.

Yard, front means a yard extending across the full width of the lot between the front lot line and the nearest line or point of the building.

Yard, rear means a yard extending across the full width of the lot between the rear lot line and the nearest line or point of the building.

Yard, side means a yard extending from the front yard to the rear yard between the side lot line and the nearest line or point of the building.

Zone district means a zone district of the Town as established in Section 3 of this Chapter, unless the term is used in a context that clearly indicates that the term is meant to include both the zone district(s) of the Town and the zone district(s) of an adjoining governmental jurisdiction. Also referred to as "zoning district."

Zoning map means the official zoning map adopted by the Town by ordinance, as amended.

30-1-122 Public hearing and general notice provisions

A. *Specific purposes.* Public hearings are open meetings conducted by local boards to gather information from the public and to survey public opinion as part of the local rule-making process. Public hearings are required by either the State of Colorado or Town of Berthoud and will be conducted before the Planning Commission, the Board of Trustees, or the Planning Commission acting as the Board of Adjustment as appropriate. Public hearings will be conducted under the following general conditions:

1. Before reviewing an application for a permit that requires a public hearing, said hearing shall be scheduled within a reasonable time as allowed by the schedules of Town officials and staff. Town staff is responsible for the scheduling of all public hearings.

2. Subject to Subsection C below, the hearing shall be open to the public and all persons interested in the outcome of the appeal or application shall be given an opportunity to present evidence and arguments.

3. The Board of Trustees, Planning Commission, or Board of Adjustment conducting the hearing may place reasonable and equitable limitations on the presentation of evidence, arguments and the cross-examination of witnesses.

B. *Public notice requirements.* The Town shall give notice of any public hearing required as provided below. The applicant shall be responsible for all costs of such notice.

1. Where required by statute or ordinance to give notice to surrounding property owners, notice shall be given by mailing a written notice as specified in the Public Hearing and General Notice Provisions Table.

2. Where required by statute or ordinance to give notice to other interested property owners such as mineral interest owners of record, mineral and oil and gas lessees for the property, and appropriate ditch companies, notice shall be given by the applicant by mailing a written notice not later than 15 days before the hearing. The applicant shall provide evidence of mailing to the Town.

3. Where required by statute or ordinance to give notice to other parties of interest or referral agencies, notice shall be given as specified in the Public Hearing and General Notice Provisions Table.

4. Where required by statute or ordinance to give notice of annexation hearings to special districts, school districts and Larimer or Weld County Commissioners and the Larimer or Weld County Attorney, notice shall be given as specified in the Public Hearing and General Notice Provisions Table .

5. When required by the notice of public hearing table (Public Hearing and General Notice Provisions Table) in this section, the applicant must post a sign along each street frontage of the property. The Town will provide signs when a complete application is made. The applicant is responsible for erecting and maintaining the sign(s) for the time period specified and removing them after the last public hearing. Signs must be placed as near the property line as possible and in a manner that is readily visible from the street or road. Posting the property is a courtesy to the public and the failure of anyone to observe a sign does not invalidate any public hearing. The applicant shall pay a deposit to cover the cost of replacing the sign. When signs are returned in good condition, the deposit will be refunded.

6. The applicant shall provide (prior to the hearing) an affidavit showing the property was posted within the specified time.

7. The Town shall give notice of any public hearing required as follows:

a. Notice shall be given to potentially interested persons by publishing a notice one time in a newspaper having general circulation in the area as specified in the Public Hearing and General Notice Provisions Table .

b. This notice shall state the date, time and place of the hearing, reasonably identify the lot, parcel, or property that is the subject of the application or appeal, and give a brief description of the action requested or proposed. Proof of publication shall be made part of the record at the time of the public hearing.

c. The applicant shall provide the required mailing list and map in a format acceptable to the Town with application materials. The applicant shall certify the source for the mailing list and map.

C. *Hearing and notification requirements.* Listed below are the notification requirements in the Town of Berthoud. Abbreviations used below include C.R.S. (Colorado Revised Statutes) and Hearing (Public Hearing). Notice requirements for annexation must follow provisions of the Colorado Revised Statutes. Mailed notices identified below would normally include notice of both the Planning Commission meeting and Town Board hearing as appropriate.

Public Hearing and General Notice Provisions Table

Land Use Proccess	Referral agency notice	Hearing	Publication	Mailed notice	Post sign
Annexation	Upon acceptance of application for processing.	Before Planning Commission as regular agenda item. Before Town Board per C.R.S.	4 successive weeks starting at least 30 days prior to Statutory public hearing. The Resolution setting the Statutory public hearing shall be published.	Yes, to property owners within 500 feet no less than 25 days and no more than 30 days prior to Statutory Hearing. To Special Districts no less than 25 days prior to Statutory Hearing.	Yes, no less than 30 days prior to Statutory Hearing.
Zoning	Upon acceptance of application for processing.	Before Planning Commission as regular agenda item and Town Board as hearing.	No less than 15 days prior to hearing.	Yes, to property owners within 500 feet sent no less than 15 days prior to Commission meeting.	Yes, no less than 15 days prior to Commission meeting.
Rezoning	Upon acceptance of application for processing.	Before Planning Commission as regular agenda item and Town Board as hearing.	No less than 15 days prior to hearing.	Yes, to property owners within 500 feet sent no less than 15 days prior to Commission meeting.	Yes, no less than 15 days prior to Commission meeting.
Text Amendment to Development Code		Before Planning Commission as regular item and Town Board as hearing.	No less than 15 days prior to Commission meeting. .	No.	No.
Neighborhood Master Plan	Upon acceptance of application for processing.	Before Planning Commission as regular item and Town Board as hearing .	No less than 15 days prior to Commission meeting.	Yes, to property owners within 500 feet no less than 15 days prior to Commission meeting.	Yes, no less than 15 days prior to Commission meeting.
Preliminary Plat	Upon acceptance of application for processing.	Before Planning Commission as regular agenda item and Town Board as hearing.	No less than 15 days prior to Commission meeting.	Yes, to property owners within 500 feet no less than 15 days prior to Commission meeting.	Yes, no less than 15 days prior to Commission meeting.
Final Plat or a Replat	Upon acceptance of application for processing.	Administrative approval unless referred to Town Board for vesting or Planning Commission for hearing	No less than 15 days prior to either the Commission meeting Town Board meeting	No notice required unless Planning Commission meeting or vesting is requested. If vesting is requested, notice to be sent to property owners within 500 feet no less than 15 days prior to Board meeting.	Upon application acceptance to property owners within 500 feet
Minor Subdivision	Upon acceptance of application for processing.	Before Planning Commission as hearing. No Town Board hearing.	No less than 15 days prior to Commission hearing.	Yes, to property owners within 500 feet no less than 15 days prior to Commission hearing.	Yes, no less than 15 days prior to Commission meeting .
Amended PUD: Changes to a previously-approved PUD shall follow both the Change of Zone and Neighborhood Master Plan process as found in Chapter 30 and in this Table					
Comprehensive Plan Amendment		Before Planning Commission as regular agenda item and Town Board as hearing .	No less than 15 days prior to Commission meeting.	No	No
Variances and Appeals	Upon acceptance of application for processing.	Board of Adjustment (BOA) as hearing.	No less than 15 days prior to BOA hearing.	Yes, to property owners within 500 feet no less than 15 days prior to BOA hearing.	Yes, no less than 15 days prior to BOA hearing.
Use by Special Review	Upon acceptance of application for processing.	Before Planning Commission as regular agenda item and Town Board as hearing.	No less than 15 days prior to Commission hearing.	Yes, to property owners within 500 feet no less than 15 days prior to Commission meeting.	Yes, no less than 15 days prior to Commission meeting.
Use By Special Review Allowed Marijuana Business/Oil and Gas	Upon acceptance of application for processing.	Before Planning Commission as regular agenda item and Town Board as hearing.	No less than 15 days prior to Commission hearing.	Yes, to property owners within 500 feet, no less than 15 days prior to Commission meeting.	Yes, no less than 15 days prior to Commission meeting.
Site Plan Review and Action	Upon acceptance of application for processing.	Administrative approval unless referred to Planning Commission by Administrator.	No notice required	Upon application acceptance to property owners within 500 feet	Upon application acceptance.
Wireless Communications Facilities as Uses by Special Review	Upon acceptance of application for processing.	Before Planning Commission as regular agenda item and Town Board as hearing.	No less than 15 days prior to Commission hearing.	Yes, to property owners within 500 feet, no less than 15 days prior to Commission meeting.	Yes, no less than 15 days prior to Commission meeting.

D. *Modification of application at hearing.*

1. In response to questions or comments by persons appearing at the hearing or to suggestions or recommendations by the Board of Trustees, Planning Commission or Board of Adjustment, the applicant may agree to modify their application, including the plans and specifications submitted.

2. Unless such modifications are so substantial or extensive so as to materially change the plans, the hearing body may approve the application with the stipulation that the permit will not be issued until plans reflecting the agreed upon changes are submitted to the Town for review and approval as an administrative act.

E. *Hearing continuations.* The Board of Trustees, Planning Commission, or Board of Adjustment may continue the hearing to a subsequent meeting at a certain date and time or may close the hearing and continue the meeting to deliberate the issues until a final decision is made. If a hearing is continued to a certain date and time, no further notice of a continued hearing or meeting need be published.

F. *Record.* A recording shall be made of all hearings, and transcripts of such hearings may be requested within 30 days of the close of the hearing. Transcripts shall be provided within a reasonable time after deposit of the cost of the preparation of the transcript with the Town.

SECTION 2 DEVELOPMENT IMPACT FEES

30-2-101 Intent

A. This Section is enacted to establish the mechanism for the imposition of development impact fees to finance the capital costs of acquiring, establishing, upgrading, expanding and constructing public facilities that are necessary to accommodate such development. This Section is intended to assure that development bear an appropriate share of the cost of capital expenditures necessary to provide such public facilities within the Town of Berthoud and its service area as are required to serve the needs arising out of development. Therefore, it is the intent of this Section to accomplish the following:

1. Implement and be consistent with the Berthoud Comprehensive Plan;
2. Allocate a fair and equitable share of the operation and development costs associated with providing public facilities to new development and redevelopment;
3. Require new development and redevelopment to contribute its proportionate share of funds necessary to accommodate its impact on existing and future public facilities having a rational nexus to the proposed development, and for which the need is attributable to the proposed development.

30-2-102 Findings

A. The Board of Trustees makes the following findings based on extensive consultation with all municipal departments, the recommendations of past and current impact fee studies, testimony offered at the public hearing and careful study of municipal facility needs.

1. The Town of Berthoud is responsible for and committed to the provision of public facilities and services at levels necessary to support residential and non-residential growth and development.
2. Such facilities and services have been and will be provided by the Town utilizing funds allocated at the direction of the Board of Trustees.
3. The growth experienced by the Town in recent years and projected growth rates require an excessive expenditure of public funds to maintain adequate facility standards.
4. Each type of land development described in this Chapter will create a need for the construction, equipping, or expansion of public capital facilities.
5. The imposition of development impact fees is one preferred method of ensuring that public expenditures are not excessive, and that development bears a proportionate share of the cost of public capital facilities necessary to accommodate such development. This must be done to promote and protect the public health, safety and welfare of current and future residents of the Town.
6. The fees established by this Section are derived from, are based upon, and are calculated not to exceed the costs of:
    a. Providing additional public capital facilities required by the new land developments for which they have levied the fees; or
    b. Compensating the Town of Berthoud for expenditures made for existing public facilities that they constructed in anticipation of new growth and development.

30-2-103 Applicability and Rules of Construction

A. This Section shall be uniformly applicable to all new development that occurs within the corporate boundaries of the Town of Berthoud. Impact fees may be reviewed, assessed and amended as necessary. All required dedications and fees under the Berthoud Municipal Code shall remain in full force and effect.

B. The provisions of this Section shall be liberally construed to effectively carry out its purpose in the interest of the public health, safety and welfare.

C. For the purposes of administration and enforcement of this Section, unless otherwise stated, the following rules of construction shall apply:

1. In the case of any difference of meaning or implication between the text of this Section and any caption, illustration, summary table, or illustrative tables, the text shall control.

2. The word "shall" is always mandatory and not discretionary; the word "may" is permissive.

3. Words used in the present tense shall include the future, and words used in the singular number shall include the plural, and the plural the singular, unless the context clearly indicates the contrary.

4. The phrase "used for " includes "arranged for," "designed for," "maintained for," or "occupied for.

5. The word "person" includes an individual, a corporation, a partnership, an incorporated association, or any other similar entity.

6. Unless the context clearly indicates the contrary, where a regulation involves two or more items, conditions, provisions, or events connected by the conjunction "and," "or" or "either … or," the conjunction shall be interpreted as follows:

   a. "And" indicates that all connected terms, conditions, provisions or events shall apply.

   b. "Or" indicates that the connected terms, conditions, provisions or events may apply singly or in any combination.

   c. "Either … or" indicates that the connected items, conditions, provisions or events shall apply singly but not in combination.

7. The word "includes" shall not limit a term to the specific example but is intended to extend its meaning to all other instances or circumstances alike in kind or character.

30-2-104 Definitions

A. The following words, terms and phrases, when used in this Chapter, shall have the meanings ascribed to them in this Section, except where the context clearly indicates a different meaning:

Assessment means a determination of the amount of a development impact fee.

Capital equipment means equipment and furnishings with an expected life of at least five years and an aggregate value of at least $5,000.00.

Capital improvement means any of the following facilities that have a life expectancy of five or more years and are owned and operated by or for a municipality:

a. Storm water, drainage and flood control facilities;

b. Roadway facilities located within the service area, including roads, bridges, bike and pedestrian trails, bus bays, rights-of-way, traffic signals, landscaping and any local components of state and federal highways;

c. Parks, recreation buildings, outdoor recreational areas, open space, trails and related areas and facilities.

d. Public buildings, equipment, and vehicles necessary to support the efficient operation of the Town and its services.

Connection fee means a reasonable fee for connection of a service line to an existing water, sewer or municipal utility.

Development impact fee means a charge or assessment imposed by the Town on new development to generate revenue for funding or recouping the costs of capital improvements or facility expansions required by and attributable to the new development. The term includes amortized charges, lump sum charges, capital recovery fees, contributions in aid of construction, development fees and any other fee that function as described by this definition. The term does not include connection fees, dedication of rights-of-way or easements or construction or dedication of on-site or off-site water distribution, wastewater collection or drainage facilities, streets, sidewalks or curbs if previously approved agreements between the developer and the Town require the dedication or construction and is required by and attributable to the new development.

Facility expansion means the expansion of the capacity of an existing facility that serves the same function as an otherwise necessary new capital improvement, so the existing facility may serve new development. The term does not include the repair, maintenance, modernization or expansion of an existing facility to better serve existing development, including schools and related facilities.

Fee means a development impact fee.

Fee payer means a person applying for the issuance of a building permit, subdivision or site plan approval, variance or other local land use decision that will create new development.

Land use assumptions includes a description of the service area and projections of changes in land uses, densities, intensities and population in the service area over at least a five-year period.

New Development and redevelopment means any activity that results in a net increase in the demand for additional public capital facilities, as defined in this Chapter:

a. The creation of a new single-family equivalent (SFE), except the replacement of existing units of the same size and density;

b. A net increase in the gross floor area of any nonresidential building Or in the habitable portion of a residential building;

c. The conversion of a legally existing use to another permitted use if such change of use would create an increase in the demand for additional public facilities, as defined by this ordinance.

New Development does not include:

a. The reconstruction of a structure that fire or natural disaster has destroyed if there is no change nor change of use in the size and density of the structure;

b. The replacement of a mobile home; or

c. The construction of an accessory structure that would not increase the demand for facilities by the principal structure.

Public capital facilities means the undivided interest of the Town of Berthoud in the assets, facilities, and equipment owned and operated by the Town of Berthoud or cooperatively with other governmental entities that have a useful life of no less than five years. *Public capital facilities* do not include the costs associated with the operation, maintenance, repair of such facilities or with facility replacements that do not increase the capacity or level of service, but does include reasonable costs for planning, engineering, design, land acquisition, and other reasonable costs associated with such facilities.

Qualified professional means a professional engineer, surveyor, financial analyst, planner or other person providing services within the scope of his license, education or experience.

Roadway facilities mean arterial or collector streets or roads including bridges, bike and pedestrian trails, bus bays, rights-of-way, traffic signals, landscaping at any local components of state or federal highways.

Service area means the area within the corporate boundaries or extraterritorial jurisdiction of a municipality to be served by the capital improvements or facility expansions specified in the capital improvements plan based on sound planning and engineering standards.

Service unit means a standardized measure of consumption, use, generation or discharge attributable to an individual unit of development calculated in accordance with generally accepted engineering or planning standards for a category of capital improvements or facility expansions.

Town Administrative Official means the Town Administrator appointed by the Board of Trustees or the municipal officials that he or she may designate to carry out the administration of this ordinance.

30-2-105 Imposition of Development Impact Fees

A. Any person, who, after the effective date of this Section seeks to undertake new development within the Town of Berthoud is hereby required to pay development impact fees in the manner and amount set forth in this Section.

B. No new building permit or new permit for any activity requiring payment of a development impact fee pursuant to the Computation of the Development Impact Fee section of this Chapter shall be issued unless and until the development impact fee hereby required has been paid.

C. The Town collects a number of fees at the time of Building Permit. All fees are approved by Resolution and adopted annually with each budget.

30-2-106 Computation of the Development Impact Fee

A. The amount of the development impact fees shall be set forth in the current Town Fee Resolution and shall have been determined by the Town Board based on the most recent available cost and value of infrastructure, population, and capacity information. Such fees may be amended with the fee resolution based upon updates to any of the foregoing criteria. Except as specifically provided otherwise herein, all Impact Fees existing as of the date of this Section shall remain in full force and effect until modified by a Fee Resolution.

B. In the case of new development created by a change of use, redevelopment, or expansion or modification of an existing use, the development impact fee shall be based upon the net positive increase in the development impact fee for the new use as compared to that which was or would have been assessed for the previous use. It is the property owner/business owner's responsibility to provide a consumptive use analysis, when requested to determine the change in impact.

30-2-107 Payment of Fees

A. The fee payer shall pay all development impact fees required by this Section to the Town of Berthoud before issuance of a building permit or other permit required for a proposed new development.

B. All unpaid fees shall constitute a lien on the property and may be collected in the same manner as uncollected property taxes as provided by law.

30-2-108 Appeals

A. Any aggrieved party may appeal to contest the amount, collection or use of the development impact fee in the manner provided herein.

B. It shall be a condition to the commencement of such an appeal that the development impact fee from which the developer appeals shall be paid as and when the fee becomes due and payable, and upon default in making any such payment, such appeal may be dismissed.

C. The only questions appealable under this Section are the following:

1. The amount of the fee charged and paid by the developer;

2. The method of collection of the development impact fee;

3. The use to which the particular fee paid by the developer is made by the Town.

D. Appeals must be brought within 30 days of the date the development impact fee is payable.

E. The appellant shall pay a filing fee of $500.00 at the time of filing of the appeal. They shall file the notice of appeal with the Town Clerk.

F. Following the filing of the notice of appeal, the Town Clerk shall compile a record of the ordinance imposing the development impact fee that is the subject of the appeal and a record of the management and expenditure of the proceeds of the development impact fee and shall transmit these documents to the Board of Trustees. In consultation with the Town departments, the Town Clerk shall also compile a report on each appeal in which the appellant is seeking a reduction or total refund in the development impact fee paid. This report shall specify the fiscal impact on the Town if the appeal overturns the development impact fee. If the fiscal impact report indicates that the appeal, if successful, will cause a revenue shortfall that otherwise was not budgeted with respect to the public facility, and if this revenue shortfall cannot be reconciled by reduction in impacts caused by development on the appellant's property, the report shall estimate whether it will be necessary for the Town to adjust development impact fees, or amend existing ordinances, to recover the proposed revenue shortfall.

G. The appellant shall prepare and submit to the Board of Trustees, an independent fee calculation study for the new development activity that they propose. The appellant shall pay all costs incurred by the Town for the review of such study.

H. The Board of Trustees shall hold a public hearing on the appeal at its earliest convenience, preceded by a notice published as provided by law not less than 15 days preceding the date of the hearing, providing fair opportunity for the appellant to be heard. The burden shall be on the appellant to establish illegality or impropriety of the fee from which they have taken the appeal. Following the close of the public healing, the Board of Trustees shall deliberate upon the matter, and shall conduct such studies and inquiries as it deems appropriate to decide the appeal. The Board shall render their decision on the appeal within 30 days of the hearing, unless such time is extended by mutual consent of the Board and the appellant.

I. If the Board of Trustees determines that the appeal has merit, it shall determine appropriate remedies. These may include reallocation of the proceeds of the challenged development impact fee to accomplish the purposes for which the fee was collected, refunding the development impact fee in full or in part, along with interest collected by the Town thereon, or granting the appellant the opportunity to make the development impact fee payment in installments, or such other remedies as in its sole judgement it deems appropriate in a particular case.

30-2-109 Administration of Funds Collected

A. Interest earned on development impact fees shall become part of the account on which it is earned and shall be subject to all restrictions placed on the use of development impact fees under this Section.

B. Money from fees may be spent only for the purposes for which the fee was imposed as shown by any capital improvements plan adopted by the Town or as authorized by this Section.

C. The Town Treasurer shall have custody of all fee accounts and shall pay out the same only upon written orders of the Board of Trustees.

D. Funds withdrawn from the development impact fee accounts shall be used solely for acquiring, constructing, expanding or equipping those public capital facilities identified in this Section.

E. If bonds or similar debt instruments have been issued for public capital facilities constructed in anticipation of new development or are issued for advanced provision of capital facilities identified in this Section, development impact fees may be used to pay debt service on such bonds or similar debt instruments.

30-2-110 Credits

A. Land and/or public capital facility improvements may be offered by the fee payer as total or partial payment of the required development impact fee. The offer must be determined to represent an identifiable dollar value computed in a manner acceptable to the Board of Trustees. If land or improvements are offered as payment, an independent appraisal acceptable to the Board shall determine the value of such land or improvements. The Board of Trustees, in its sole discretion, may authorize the fee payer a development impact fee credit in the amount of the value of the contribution.

B. Any claim for credit must be made no later than the time of application for the building permit.

C. Credits shall not be transferable from one project or development to another without written approval of the Board of Trustees.

D. Credits shall not be transferable from one component of the public capital facility's development impact fee to any other component of this fee.

30-2-111 Additional Assessments

A. Payment of a development impact fee does not restrict the Town in requiring other payments from the fee payer, including such payments relating to the cost of the extensions of water and sewer mains or the construction of roads or streets or turning lanes to access the site or other infrastructure and facilities specifically benefitting the development as required by the land use review regulations contained in Chapter 16 of the Berthoud Municipal Code.

30-2-112 Review

A. The Board of Trustees shall review the Development Impact Fee Schedule in association with its annual fee resolution process. Such review may result in recommended amendments in one or more of the fees based on the most recent data as may be available from the Bureau of the Census, local property assessment records, market data reflecting interest and discount rates, current construction cost information for public capital facilities, etc. The Board of Trustees shall approve amendments to the impact fees following public hearings called for that purpose, no more frequently than annually, based on such data. Amendments to the amount of any fee may be by Resolution setting forth the basis for any change.

30-2-113 Water Right Dedication Requirements

A. *Titles.* This Section shall be known as the Town of Berthoud Water Dedication Requirements.

B. *Interpretation.* This Section shall be interpreted and construed so as to effectuate its general purposes to make uniform the terms and conditions for the dedication of water rights and cash in lieu of water dedication to the Town for development within the Town. However, this Section shall not be applied in a manner inconsistent with annexation agreements in existence prior to the effective date hereof.

C. *Definitions.* Whenever in this Section, the words hereinafter defined or construed in this Section are used, they shall, unless the context requires other uses, be deemed to have the following meanings:

Accessory Dwelling means a residential dwelling unit located on the same lot as a single-family dwelling unit, either within the same building as the single-family dwelling unit or in a detached building, that provides complete independent living facilities, including but not limited to provisions for sleeping, eating, cooking, and sanitation for one or more persons. Mobile homes and recreational vehicles shall not be included within the definition of the term Accessory Dwelling Unit. Accessory dwelling units shall be developed in accordance with the standards set forth in the Accessory Dwelling Unit Section of

this code and only in those zoning districts where the use is listed as a use by right. Also referred to as a 'Guest House' or 'Mother-in-Law Suite'

Acceptable Water Rights for Potable Purposes means water rights acceptable to the Town pursuant to the applicable criteria set forth in Section I hereof, and deliverable to Berthoud Reservoir or directly to the Town's water treatment plant for water treatment.

Acceptable Water Rights for Non-Potable Purposes means water rights acceptable to the Town pursuant to the applicable criteria set forth in Section I hereof, and deliverable to a location acceptable to the Town.

Annexation means the act of attaching, adding, joining, or uniting a parcel of land to the legal entity known as the Town of Berthoud.

Cash in lieu of water dedication means a separate and distinct fee from water taps as required in section G, H and K hereof and related Sections of this Code, which fee shall be utilized primarily to acquire water rights and necessary facilities for all beneficial uses within the Town. The Town shall issue a Certification of Water Dedication Credits for cash in lieu of water dedication payments for future development in the Town.

Certification of Water Dedication Credits means a certificate issued by the Town for water dedication credits in exchange for cash in lieu of water dedication payments or water rights dedications for future development in the Town.

CBT Unit means a Unit of the Colorado Big Thompson Project. A CBT Unit shall be defined to have a firm yield of 0.6 acre feet.

Change in Land Use means a change in the purpose or activity for which a particular piece of land or its buildings is designed, arranged or intended or for which it is occupied or maintained as provided in the zoning regulations for the zone district in which the land is located which change requires water resources.

Conveyance of water rights means the process by which legal title to water rights are transferred by appropriate deed, stock assignment, allotment contract or other record transfer.

Dedicate or *dedication* means to appropriate an interest in land or water rights to some public use, made by the owner, and accepted for such use by or on behalf of the public.

Development means any change in the intensity of use of land, such as an increase in the number of dwelling units in a structure or on a tract of land, a material increase in the intensity and impacts of a development, the installation of landscaping within a public right of way, when installed in connection with a development of adjacent property and any man- made change to improved or unimproved real estate which requires additional water resources.

Dwelling unit means any building or portion thereof which contains living facilities, including provisions for sleeping, eating, cooking, and sanitation, as required by the International Building Code or the International Residential Code, as locally amended.

Extension of water service means any extension of the Town water service for which a tapping charge is assessed or any increase in Town water service resulting from a Change in Land Use.

Native Seed Area means an area that is planted using broadcast native or drought-tolerant seed mix, resulting in a drought-tolerant turf. These areas have a water dedication requirement of 0.8 acre-feet per acre.

Historical Water Rights mean those water rights associated with a particular parcel of land at the time of annexation and which have been applied to beneficial use on that land.

Natural Area as it pertains to this Section, means an area that (a) is appropriately vegetated and free of weeds; (b) is capable of maintaining the existing vegetation without irrigation; (c) has been dedicated

to and accepted by the Town; and (d) is a wetland under the criteria in the Wetlands Delineation Manual utilized by the U.S. Amy Corps of Engineers and the U.S. Environmental Protection Agency in effect at the time of dedication to the Town. All Natural Areas shall be encumbered by a conservation easement. Natural Areas do not require any irrigation. In order to qualify as a Natural Area, the Developer must pay the Town's fees and expenses incurred in determining whether the area is a wetland and appropriately vegetated, and the Natural Area must be accepted by the Town at the Town's sole discretion by and through the Town Administrator.

Open Water means a body of water, such as a pond or reservoir, whether existing or created and whether for purposes of water storage, aesthetic, or recreation, that has an adequate physical and legal water supply to maintain the open water condition year round, and that has been accepted by the Town for Open Water land use.

Owner shall be any person owning water using property and/or any person owning real property either corporeal or incorporeal, connected or not connected to the Town water system.

Person shall include any individual, partnership, association, organization, firm, district, corporation, group or other legal entity of any nature, public or private.

Phase means a portion of property that is being platted or has been platted.

Single Family Equivalent Unit (*SFE* or *S.F.E.*) means a number related to the volume of water necessary to meet the demand and use requirements including systems losses and consumptive use requirements, of an average single family dwelling unit which is defined herein as 0.4 acre feet. An S.F.E. shall be defined as 0.4 acre feet for all purposes. The S.F.E. unit value assigned to such average dwelling unit is 1.0.

Sufficient priority means that a water right has a date as of which it is entitled to use water in relation to other water rights deriving their supply from the same source which is sufficiently senior that it may reasonably be expected to provide a dependable water supply for the requirements of this Section. Factors to be considered in making this determination shall include, but not by way of limitation, the appropriation date and adjudication date of the water right, the decreed use(s), the historical use of the water right, the physical flow available, and the administrative practices of the office of the State Engineer.

Supplemental Irrigation Water means additional potable water which will be required for irrigation at times when water is not available through a non-potable irrigation system.

Town means the Town of Berthoud, Colorado, or the Town of Berthoud acting by and through a water activity enterprise owned by the Town of Berthoud.

Town Administrator means the Town Administrator of the Town of Berthoud, Colorado.

Town Board means the Town Board of Trustees of the Town of Berthoud, Colorado.

Town water service means treated water service or non-potable water furnished by the Town of Berthoud, Colorado.

Transfer of water rights means the conveyance of legal title to water rights to the Town of Berthoud, Colorado.

Water Court Transfer Fee means the cost of court filing fees, publication fees, professional fees and other reasonable and customary costs associated with required proceedings in the Water Court for the Town to make full and lawful use of water rights dedicated to or acquired by the Town for use in its municipal water system.

Water right means a decreed right to use in accordance with its priority a certain portion of the waters of the State by reason of the appropriation of the same. It shall include both direct flow and storage rights.

Water right shall also be used in the context of this Section to include allotment contracts with the Northern Colorado Water Conservancy District and its Municipal Subdistrict.

D. *Agreement to Comply with this Section and Development Code Requirements.* No person may use water from the Town's water utility or provide non-potable water to new development within the Town unless such person agrees to abide by all provisions of this Section, the Town's Development Code, all other applicable ordinances of the Town, and all the rules and regulations of the Town pertaining to the water utility and water utility services. Such agreement to abide by all the provisions of this Section and the Development Code shall include the reasonable right of an authorized Town representative to enter upon the water user's property and to gain access to a building or structure for inspection purposes as set forth in this Section. Acceptance of water service from the Town shall be deemed to constitute such agreement on the part of the water user.

E. *Other Water Systems.* No person shall operate, own, manage, control or possess a commercial water system obtaining its water supply from any source for the purpose or with the effect of distributing water therefrom to any water using property or water- using unit for any development within the Town approved after the adoption of this Section without first entering into an agreement therefore with the Town in the manner provided by, through, and under the laws of the State of Colorado.

F. *Obtaining Water.*

1. *Other Water Sources:* Except as the Town Board may otherwise by appropriate resolution allow, no person residing or situated within the Town corporate boundaries shall use or obtain water for usual and ordinary water use purposes for any development within the Town approved after the adoption of this Section except (1) by, through, and from the Town; or (2) through other systems specifically approved by the Town in writing.

2. *Other Water Sources Within Town of Berthoud's System:* No person or owner shall in any way, at any time connect or introduce water in, to, or with the Town water system, without the Town's previous written approval.

G. *Cash in Lieu of Water Dedications or Dedication of Water Rights for Potable Purposes.*

1. *Intent and Purpose.* It is the intent and purpose of this Section to require the dedication of Acceptable Water Rights for Potable Purposes or the payment of cash in lieu of water dedication for all potable uses. Any payment of cash in lieu of water dedication hereunder or dedication of water rights shall be sufficient to satisfy any new or additional demands for Town water service resulting from the extension of water service, or any Change in Land Use, within or outside the limits of the Town, which will require new or additional water supply from the Town, and thereby to assure an adequate and stable supply of water to all Town water users, to ensure the financial stability of the Town water utility, and to promote the general welfare of the public.

2. *Water Right Dedication Requirement.* It is not the intent of the Town to allow the recalculation of water dedications for existing development or to increase the water dedication requirements for developments for which a final plat has already been approved as of the effective date of this Section. The requirements herein shall apply to all new development, unless otherwise agreed to in an applicable annexation or development agreement with the Town.

a. *Dedication of Historical Water Rights*. As a condition of annexation of land to the Town, ownership of all Historical Water Rights associated with the land to be annexed shall be dedicated to the Town in accordance with section I hereof, and such dedication shall occur upon meeting all other conditions necessary for the finalization of annexation. For any other development or change in land use on lands already annexed to the Town, ownership of all Historical Water Rights associated with the land shall be dedicated to the Town in accordance with section I hereof, prior to the Town's approval of any final plat.

3. From and after the effective date of this Section, any person who seeks approval of any of the following shall comply with this Section and the Town's Development Code:

   a. an extension of water service;

   b. annexation;

   c. subdivision;

   d. any Change in Land Use, within or outside the limits of the Town, if such Change in Land Use will increase the demand for Town water service.

4. *Required Water Dedication or Cash in Lieu of Water Dedication for Potable Purposes.* Cash in lieu of water dedication or dedication of Acceptable Water Rights for Potable Purposes shall be required for all potable uses.

5. *Timing for Dedication of Water Rights or Payment of Cash in Lieu of Water Dedication for Potable Purposes.* Prior to issuance of a building permit, the person acquiring said building permit shall provide the required cash in lieu of water dedication or dedicate Acceptable Water Rights for Potable Purposes to the Town.

6. *Timing for Dedication of Water Rights or Payment of Cash in Lieu of Water Dedication for Potable Irrigation of Parks, Open Space, Golf Courses, Playing Fields and Similar Areas.* Prior to issuance of a Town Stormwater Discharge Permit for a Phase of a development, the person developing the property shall pay cash in lieu of water dedication or dedicate Acceptable Water Rights for Potable Purposes to the Town necessary to provide for one-half of water necessary for the irrigation of parks, open space, golf courses, playing fields and similar areas within the Phase to be developed if said irrigation is to be supplied with potable water. The remaining one-half shall be due and owing upon issuance of one-half of the building permits for the Phase to be developed. No further building permits shall be issued for that Phase of development until the second one-half of cash in lieu of water dedication is paid or Acceptable Water Rights for Potable Purposes are dedicated to the Town. A person may also elect to dedicate water rights for non-potable irrigation as set forth in section H below.

7. *Amounts of Water Dedication and Cash in Lieu of Water Dedications for Potable Purposes.*

   a. *SFE Determinations for Residential Development.* The amount of water dedication required for residential development in which outdoor uses are not supplied by a separate irrigation tap or system shall be determined by the Town in accordance with the following SFE values:

Dwelling Unit	SFE Value
Single Family Dwelling Unit (up to 3,500 sq. ft. lot)	0.75 SFE
Single Family Dwelling Unit (3,501 sq. ft. to 11,999 sq. ft. lot)	1.0 SFE
Single Family Dwelling Unit (12,000 to 18,000 sq. ft. lot)	1.25 SFE
Single Family Dwelling Unit (greater than 18,000 sq. ft. lot)	At least 1.5 SFE or more, as calculated pursuant to sections G.8.c hereof.
Duplex (less than 12,000 sq. ft. lot)	2 SFE
Duplex (12,000 to 18,000 sq. ft. lot)	2.5 SFE
Duplex (greater than 18,000 sq. ft. lot)	At least 2.5 SFE, or more as calculated pursuant to sections G.8.c hereof.
Multi-Family (3 or more Units)	0.5 SFE per Unit for indoor use; Additional irrigation requirement calculated pursuant to sections G.8.c. hereof.
Accessory Dwelling	0.5 SFE

b. *SFE Determinations for Residential Development with No Irrigation or Separate Irrigation Tap*: The amount of of water dedication required for dwelling units with no outdoor irrigation from the water taps for said dwelling units shall be based upon a requirement of 0.5 SFE's (0.2 acre feet) per dwelling unit. This includes dwelling units in developments with all irrigated areas served by a separate irrigation tap.

c. *SFE Determinations for Irrigation with Potable Water*: Except as set forth in section G.8.a. above regarding single family homes, duplexes, multi-family homes, and accessory dwellings, the amount of water dedication required for irrigation with potable water shall be determined by the Town based upon landscaping plans submitted to the Town in accordance with the Landscape Plan and Hydrozone Analysis requirements in ths Chapter, applying the following irrigation demands:

i. Zero irrigation demand (0 SFE's) per acre for Natural Areas, Open Water and impervious surfaces; and

ii. A demand of 0.8 acre-feet (2 SFE's) per acre for Native Seed Areas; and

iii. A demand of 3.0 acre feet (7.5 SFE's) per acre for lawn grass, which shall include, but shall not be limited to playing fields, parks, turf areas within golf courses and similar situations; and

iv. A demand of 1.33 acre feet (3.325 SFE's) per acre for non-turf vegetation except Natural Areas and Native Seed Areas, including but not limited to areas planted with trees, shrubs, flower beds, and low water use ground cover.

v. The Hydrozone Analysis is a consumptive use analysis prepared by an applicant for development, that the Town shall analyze and the analyses shall be paid for by the person developing the property. The person developing the property may also submit a written analysis by a qualified landscape architect or an irrigation specialist sufficient to allow the Town to fully evaluate the probable water demand and consumption for irrigation uses for the development. In the event that a person elects to submit a written analysis, the Town shall review said analysis, which analysis shall be paid for by the person developing the property. The Town Administrator shall have the authority to make all final determinations of said irrigation water requirements.

d. *SFE Determinations for Commercial Development*: The amount of water dedication required for commercial use shall be based upon a calculation of the SFEs required to provide water service for said commercial use.

i. The Town shall analyze water requirements for a proposed commercial use at the time that the commercial use is defined.

ii.The person developing the property may also submit a written analysis by a qualified consultant sufficient to allow the Town to fully evaluate the probable water demand and consumptive use for the commercial development. In the event that a person elects to submit a written analysis, the Town shall review said analysis, which analysis shall be paid for by the person developing the property. The Town Administrator shall have the authority to make all final determinations of said commercial water requirements.

iii. All commercial uses shall require a minimum of 0.5 SFE's. For multi-tenant commercial buildings, a water dedication fee for 0.5 SFE's per 1,000 square feet of building area shall be paid prior to issuance of a building permit.

iv. The Town may conduct an audit of any commercial uses to confirm the adequacy of the water original calculation of the SFEs required to provide water service for said commercial use, and the Town may require additional water dedication based on actual water usage. In the event that the Town and the Owner cannot reach an agreement regarding the additional water rights dedication based on actual water usage, the Town reserves all remedies at law and equity to resolve any such dispute.

H. *Cash in Lieu of Water Dedications or Water Rights Dedications for Non-Potable Purposes.*

1. *Amount of Water Dedication and Cash in Lieu of Water Dedications for Non-Potable Purposes.* The amount of water dedication required for residential development in which outdoor uses are supplied by a non-potable irrigation tap or system shall be determined by the Town in accordance with the following SFE values:

NON-POTABLE IRRIGATION REQUIREMENTS

Dwelling Unit	SFE Value
Single Family Dwelling Unit (up to 3,500 sq. ft. lot)	0.25 SFE
Single Family Dwelling Unit (3,501 sq. ft. to 11,999 sq. ft. lot)	0.5 SFE
Single Family Dwelling Unit (12,000 to 18,000 sq. ft. lot)	0.75 SFE
Single Family Dwelling Unit (greater than 18,000 sq. ft. lot)	At least 1.0 SFE or more, as calculated pursuant to this section H.
Duplex (less than 12,000 sq. ft. lot)	1 SFE
Duplex (12,000 to 18,000 sq. ft. lot)	1.5 SFE
Duplex (greater than 18,000 sq. ft. lot)	At least 1.5 SFE, or more as calculated pursuant to this section H.
Multi-Family (3 or more Units)	Irrigation requirement calculated pursuant to this section H.

a. Additional water necessary for outdoor irrigation for single family dwellings and duplexes on lots in excess of 12,000 square feet and 18,000 square feet shall require a minimum of 0.75 and 1.5 SFE's respectively and shall be determined by the Town's staff, with final approval by the Town Administrator pursuant to this section H.

b. All other properties requiring outdoor irrigation shall require cash in lieu of water dedication or dedication of Acceptable Water Rights for Non-Potable Purposes in accordance with this section H based upon landscaping plans submitted to the Town in accordance with the Landscape Plan and Hyrdozone Analysis requirements in ths Chapterand based on the following irrigation demands:

i. Zero irrigation demand (0 SFE's) per acre for Natural Areas, Open Water and impervious surfaces; and

ii. Demand of 0.8 acre-feet (2 SFE's) per acre for Native Seed Areas; and

iii. A demand of 3.0 acre feet (7.5 SFE's) per acre for lawn grass which shall include, but shall not be limited to playing fields, parks, turf areas within golf courses and similar situations in which irrigation water is supplied through a separate non-potable irrigation tap or system; and

iv. A demand of l.33 acre feet (3.325 SFE's) per acre for non-turf vegetation except Natural Areas and Native Seed Areas, including but not limited to areas planted with trees, shrubs, flower beds, and low water use ground cover.

v. The Hydrozone Analysis is a consumptive use analysis that the Town shall analyze and this analysis I likshall be paid for by the person developing the property. The person developing the property may also submit a written analysis by a qualified landscape architect or irrigation specialist sufficient to allow the Town to fully evaluate the probable water demand and consumption for non-potable irrigation uses for the development. In the event that a person elects to submit a written analysis, the Town shall review said analysis, which analysis shall be paid for by the person developing the property. The Town Administrator shall have the authority to make all final determinations of said irrigation water requirements.

2. *Water Dedication for Augmentation Purposes.* The person dedicating any feature to the Town that requires augmentation or replacement water shall be solely responsible for all costs and obligations of such feature, including any ongoing water augmentation or replacement obligations that may be required by dedicating to the Town an adequate amount of water to replace out-of- priority depletions, which amount Town staff determines, in its sole discretion, and all costs associated with the adjudication of a Plan for Augmentationwith final approval of the Town Administrator and with the assistance of consultants and/or attorneys as needed, on a case-by-case basis.

3. *Water Dedication Alternatives.* A person who will be developing or using a non-potable irrigation system may elect to pay cash in lieu of water dedication based upon the prices set forth in section K hereof. A person may also elect to dedicate Acceptable Water Rights for Non-Potable Purposes in accordance with this section H for use within a non-potable system.

4. *Timing for Dedication of Water Rights or Payment of Cash in Lieu of Water Dedication for Non-Potable Purposes.* Prior to issuance of a building permit for any building in the Phase of development that will use non-potable water for irrigation, the person acquiring said building permit shall provide the required cash in lieu of water dedication or dedicate Acceptable Water Rights for Non-Potable Purposes.

5. *Timing for Dedication of Water Rights or Payment of Cash in Lieu of Water Dedication for Non-Potable Irrigation of Parks, Open Space, Golf Courses, Playing Fields and Similar Areas.* Prior to issuance of a Town Stormwater Discharge Permit for a Phase of development, a person shall dedicate Acceptable Water Rights for Non-Potable Purposes and/or pay all cash in lieu of water dedication including supplemental irrigation water to provide for one-half of the water necessary for non-potable irrigation of parks, open space, golf courses, playing fields and similar areas within the Phase to be developed. The remaining one-half shall be due and owing upon issuance of one-half of the building permits for the Phase to be developed. No further building permits shall be issued for that Phase of development until the second one-half of cash in lieu of water dedication is paid or water rights are dedicated to the Town.

I. *Water Rights Dedications.* In cases where a person desires to dedicate water rights rather than paying cash in lieu of water dedication, a written agreement with the Town shall be required and the following requirements shall apply.

1. *Potable Water Sources.* The amount and suitability of Acceptable Water Rights for Potable Purposes necessary to provide firm yield water shall be determined by the Town at its sole discretion. The person dedicating water rights for potable purposes shall pay for an analysis by the Town through a qualified water engineer with supporting data which shall include the following:

   a. the quantity and quality of the water which will be delivered pursuant to said water rights;

   b. the ability to deliver said water to Berthoud Reservoir or directly to the Town's water treatment plant for treatment;

   c. the amount and suitability of a dry up covenant to change the use of said water rights in Water Court, as necessary; and

   d. such other analysis as the Town deems necessary.

2. *Non-Potable Water Sources.* The amount and suitability of Acceptable Water Rights for Non-Potable Purposes necessary to provide firm yield water shall be determined by the Town at its sole discretion. The person dedicating water rights for non-potable purposes shall pay for an analysis by the Town through a qualified water engineer with supporting data to address both the criteria set forth in section I.1. and the following:

   a. a calculation of the volume of water which any non-potable system will be able to provide on a monthly basis;

b. the amount of potable supplemental irrigation water which will be required when water under non-potable water rights is not available;

c. the amount of required water storage, if any;

d. the proposed use of the water rights through the proposed facilities; and

e. compliance with this Chapter and the Section on Non-Potable Water Systems.

3. *Legal Criteria for Dedication Water Rights.* The person dedicating water rights shall also pay for an analysis by the Town by an attorney who specializes in water law as to whether the use of the non-potable water as it is presented will be in full compliance with the adjudicated usage of the decreed water rights, or will need a change in the use of the water rights.

4. *Specific Water Rights.*

a. *Handy Ditch Shares.* The amount of water for which a person will receive credit relative to the shares in the Handy Ditch Company ("Handy") will be based upon four and four-tenths acre feet per share if the historic use of the specific shares to be dedicated support said yield at the Town's sole discretion pursuant to section I.1. and 2. above.

b. *CBT Units.* The amount of water for which a person will receive credit relative to a CBT Unit shall be 0.6 acre feet per Unit. The analyses set forth in section I.1. shall not apply to the dedication of CBT Units.

5. *Conveyance of Water Rights to the Town.* Conveyance of any water to the Town must be made in a manner that warrants free and clear title to the water. The Town shall also require documentation evidencing said free and clear title. Said water rights shall be conveyed to the Town by general warranty deed and assignment of an original share certificate for the water rights or as determined by the Town in its sole discretion. A dry-up covenant for the lands historically irrigated shall also be required if deemed necessary by the Town.

6. *Water Rights Fee.* The person dedicating said water rights to the Town shall pay to the Town $2,500.00/acre foot for any water rights which will need to be changed in Water Court to pay for Water Court fees, legal, engineering, ditch company, and Water Court fees incurred by the Town to change said water rights.

J. *Certifications of Water Dedication Credits.* Upon payment of cash in lieu of water dedication or the dedication of water rights, the Town shall issue a Certification of Water Dedication Credits to the person so paying said cash in lieu of water dedication or dedicating water rights which shall set forth the amount of water dedication credits which are available for future development in the Town. The water dedication credits under any such certificate shall be fully transferrable and shall be usable for water dedication purposes anywhere within the Town of Berthoud. However, a water certificate holder shall not be entitled to encumber said certificate in any manner and the Town will not recognize any encumbrances, including but not limited to liens, financing statements, rights of first refusal, or use of said certificate for collateral. This limitation shall not apply to certificates issued prior to the enactment of this Section. The person paying cash in lieu of water dedication or dedicating water right shall be responsible for any legal fees incurred by the Town in issuing said Certificate. In the case of any assignment of Water Dedication Credits, the Assignor of said credits shall use the Town's forms for such assignments, and the Assignor shall be responsible for any legal fees incurred by the Town in preparing said Assignment and issuing a new Certificate. The Town may suspend any Water Dedication Credits for failure to pay said legal fees and suspend the issuance of any new building permits associated with said Water Dedication Credits until such legal fees are paid in full.

K. *Prices for Cash In Lieu of Water Dedication.* The Town shall apply the following prices for cash in lieu of water dedication:

Use	Cash In Lieu of Water Dedication
Single Family Dwelling Unit (up to 3,500 sq. ft. lot) (0.75 SFE)	$18,750 per Dwelling
Single Family Dwelling Unit (3,501 sq. ft. to 11,999 sq. ft. lot) (1 SFE)	$25,000 per Dwelling
Single Family Dwelling Unit (12,000-18,000 sq. ft. lot) (1.25 SFE)	$31,250 per Dwelling
Single Family Dwelling Unit (18,000 sq. ft. lot or greater) (at least 1.5 SFE or more, as calculated pursuant to section G.8 and H hereof)	a minimum of $37,500 per Dwelling or more (calculated at rate of $25,000 per SFE)
Duplexes (less than 12,000 square feet lot) (2.0 SFE)	$50,000 per Duplex
Duplexes (greater than 12,000 square feet and less than 18,000 square foot lots) (2.5 SFE)[1]	$62,500
Duplexes (18,000 square foot lot or greater) (at least 2.5 SFE or more, as calculated pursuant to section G.8 and H hereof)	A minimum of $62,500 per duplex or more, as calculated at rate of $25,000 per SFE
Multi-Family (3 or more Units) (0.5 SFE per Unit for indoor use). Additional irrigation requirement calculated pursuant to sections G.8 and H hereof.	A minimum of $12,500 per Unit plus any additional water required for irrigation
Accessory Dwelling (0.5 SFE Per Dwelling)	$12,500 per Unit
Commercial Use	$25,000/SFE
Potable Irrigation, including Supplemental Irrigation Water	$25,000/SFE
Non-Potable Irrigation	$12,500/SFE

These prices may be amended at any time by the Board.

SECTION 3 ANNEXATION

30-3-101 Purpose

The purpose of this Chapter is to establish a procedure to bring land under the jurisdiction of the Town in compliance with the Colorado Municipal Annexation Act of 1965 (Act), C.R.S. §§ 31-12-101, to -123, as amended. This Chapter, in part, provides supplemental requirements for annexation pursuant to the Act, and is not to be construed as altering, modifying, eliminating or replacing any requirement set forth in that Act, or any requirements set forth in other portions of the Berthoud Development Code. In the event of a conflict between the Act, the provisions of this Chapter, or any requirements set forth in other portions of the Berthoud Development Code, it is the expressed intent of the Town Board that the more stringent provision shall control.

30-3-102 Statement of policy and review standards

A. It shall be the general policy of the Town with respect to annexations, the annexation application, and the consideration of annexation petitions that:

1. *Annexation is a discretionary act*. With the exception of a petition initiated by the Town for the annexation of an enclave, the Town Board shall exercise its sole discretion in the annexation of territory to the Town.

2. No future annexation will occur in the area outside the Berthoud Growth Management Area as designated as of December 31, 2012 without a majority of “yes” votes by the registered electors cast in ballots in that election.

3. The land to be annexed and the uses proposed for the land shall conform to the goals, policies and strategies of the Town of Berthoud Comprehensive Plan and to the land uses depicted on the Preferred Land Use Map, as amended. Furthermore, all annexation proceedings shall comply with the Colorado Municipal Annexation Act of 1965, as amended.

4. At the time development occurs, certain public facilities and amenities are necessary and must be constructed as part of any territory annexed to and developed within the Town in order that the public needs may be served by such facilities. These facilities include, but are not limited to, arterial streets, bridges, public parks and recreation areas, water and sanitary sewer facilities, school sites, fire and police station sites, and storm drainage facilities. Typically, the annexation of lands to the Town shall be shown not to create any additional cost or burden on the then-existing residents of the Town to provide such public facilities in any newly annexed area.

5. The petitioner for annexation shall be responsible for paying application fees and the Town's full cost for processing the annexation applications and petition; from initial discussion with Town Staff before submittal of the petition, through the approval and recording of the final annexation documents.

6. Annexed areas will not typically divide tracts of land to prevent further annexation of adjoining parcels. (For example, leaving a "gap" or a "strip" of land between property to be annexed and the adjoining property.)

7. The property owner shall comply with the Annexation Application requirements of this Chapter prior to submitting an annexation petition.

8. The property owner shall comply with the Water Right Dedication Requirements section of this Code.

30-3-103 Annexation application; zoning simultaneous with annexation

A. *Annexation application*. An annexation application is necessary for the Town to evaluate the impacts on the Town of annexing the property identified in the application. The annexation application shall include the following information:

1. *Letter of intent*. The applicant shall provide a letter of intent addressed to the Board to serve as a cover letter to the formal petition, introducing the applicant(s) to the Board, requesting annexation of the petitioner's property and describing any development plans for the property, if it is annexed. The letter of intent shall contain the following information:

   a. The property location and how the proposal will complement and be compatible with adjacent and surrounding land uses.

   b. How the proposal is compatible with the Comprehensive Plan and land use designation on the Future Land Use Map.

   c. How the proposed zoning is compatible with the Comprehensive Plan's Future Land Use Map, and how the proposed zoning designation meets the applicable standards found in the zoning section of this Code, including housing diversity standards, design requirements and neighborhood identity features.

   d. How the proposal will meet the standards and requirements in the Architectural Guidelines, Landscape Design Guidelines, Open Space Plan, Trails Plan, and any other Town plans, and any overlay districts the property is located within.

   e. If infrastructure will be financed through a Title 32 metropolitan district, the applicant shall include the letter of intent required by the Town. This letter of intent shall specify how the proposal will be consistent with the Town of Berthoud Policy for Reviewing Service Plan for Metrololitan Districts, as amended.

2. *Annexation application form*. The Town's annexation application form shall be completed, signed, and dated. The application fee as provided by this Code must be included.

3. *Annexation Petition*. The applicant shall submit a petition for annexation complying with the requirements of C.R.S. § 31-12-107, as amended. The Town of Berthoud will provide the applicant with the standard form of this Petition. The applicant shall include detailed site and development- specific information . The applicant shall provide an original petition to the Town along with the electronic sumittal.

4. *Memorandum of Understanding (MOU) for payment of development review expenses*. The application shall be accompanied by a signed standard form MOU for the payment of Development Review Expenses incurred by the Town and the appropriate deposit of funds.

5. *Annexation map*. An annexation that complies with the Annexation Map Technical Standards section of this Code. The map shall be accompanied by a legal description of the property in an electronic version (Word format).

6. *Title commitment*. The applicant shall submit proof of ownership in the form of a current and complete title commitment issued by a title insurance company licensed by the State of Colorado, whose effective date shall be less than 30 days prior to the date of submittal of the annexation petition. Ownership must match the ownership listed in the petition. If the legal description of the area to be annexed as shown on the annexation map does not match the legal description of the property owned, because of road rights-of-way or other reasons, then the title policy must certify that the property owned is wholly contained within the described area on the annexation map. If the applicant is not the owner, there shall be provided, in addition to the title commitment naming the owner as the insured, a notarized affidavit by the owner stating the applicant is authorized by the owner to make application

for annexation. The title commitment shall include all exhibits and shall be provided in a PDF or in a form acceptable to the Town.

7. *Property tax statement*. A copy of the prior year's property tax statement and paid receipt for all property to be annexed.

8. *Mailing list*. The Applicant shall provide a mailing address for surrounding property owners who have listed for taxation any real property located within the distance found in the Public Hearing and General notice section of this Code. The applicant shall provide the Town with a list of addresses, the applicant's affidavit showing the list was complete and generated from the Larimer and/or Weld County records and the parcel number for the subject property. The applicant shall include the following on the mailing list: the Board of County Commissioners, the County attorneys, any special district or school district having territory within the property to be annexed, irrigation ditch companies whose rights of way traverse the property to be annexed and owners of the mineral estate on the property to be annexed, and any other entity identified by the Town. The mailing list shall be provided in a form acceptable to the Town.

9. *Zoning of property to be annexed*. The property shall be zoned simultaneously with annexation. The petitioner must submit a complete zoning and as applicable, a neighborhood master plan application that complies with the zoning and neighborhood master plan sections of this Code.

10. The legal description of the property to be Annexed in a format acceptable to the Town including a Word document.

11. *Annexation assessment report*. The application is to be accompanied by a narrative report assessing the effect of the proposed annexation upon the community and existing services and facilities. It shall detail the need for any expansion of those services and facilities to accommodate the development proposed for the property being annexed. The narratives shall fully explain the needs, concepts and proposed solutions for each of the following:

    a. The economic impact to the municipality of the proposed annexation including the financial impact to services provided by the Town as well as those provided by Special Districts. The financial impact shall include the impact at the time of building permit with the payment of impact fees, annual tax assessments, average sales tax per household, median household income, for example. These impact statements are understood to be estimates based on expected revenues and costs at the rates at the time of the report preparation.

    b. The applicant shall provide information regarding the outcome of discussion with the school district and the proposed impact including an estimate of the number of students to be generated by development of the property;

    c. The anticipated sources of water, sanitary sewer and other utilities to be used to serve the property and the impact on the water and sanitary sewer systems anticipated to serve the property;

    d. The impact on the existing transportation system in the immediate vicinity of the property as well as the overall community;

    e. The impact to the existing storm water drainage system and a statement on how storm drainage will be managed;

    f. Preservation of the flow of irrigation water on the site to the water's final destination;

    g. The impact of additional residents on other public services such as but not limited to: fire and emergency services, library, public health, recreation, and other special districts;

    h. How the proposal is compatible with the Comprehensive Plan and land designation on the Future Land Use Map;

i. How the proposed zoning is compatible with the Comprehensive Plans' Future Land Use Map, and how the proposed zoning designation meets the applicable standards in the zoning section of this Code, including housing diversity standards, design requirements and neighborhood identity features;

j. How the proposal will meet the standards and requirements in the Architectural Guidelines, Landscape Design Guidelines, Open Space Plan, Trails Plan, and any other Town plans, and any overlay districts the property is located within;

k. If a non-potable system is proposed, the entity that will own, operate and maintain the non-potable system in perpetuity and the source of water;

k. A review of existing and adjacent land uses, areas of compatibility or conflict, and possible mitigation measures that may be required for the proposed development.

30-3-104 Annexation process

A. *Annexation applications shall be processed and considered as follows*:

1. *Annexation pre-application conference*. The application process begins with a pre-application conference with Town Staff to determine the feasibility of the annexation request. Following this informal meeting, the applicant may submit a Letter of Intent requesting annexation, the annexation application form and petition maps and supporting documents.

2. *Town evaluation of annexation application*. Town Staff shall analyze the feasibility of annexing the proposed property, including but not limited to, the ability to serve with streets, water, sanitary sewer, storm sewer, parks and recreation, schools, police and fire protection; compliance with the Comprehensive Plan; sources of revenue from the property; the Town's costs to serve the proposed development; and other related matters.

B. *Annexation petitions shall be processed and considered as follows*:

1. *Annexation petition certification and completion*. The petition for annexation and all other documents submitted shall be reviewed by Staff for completeness and compliance with the provisions of the Act and the Berthoud Development Code. The applicant shall typically be notified within five working days of any deficiencies or inadequacies in the materials submitted. An incomplete submission shall not be processed, nor referred to the Town Board for a determination of substantial compliance. Once the application has been certified as complete, the applicant shall pay all application fees and development review fees. Until fees are paid, the application shall not be processed.

2. Staff shall forward the application for an Annexation and the accompanying zoning and neighborhood master plan applications, and any subdivision or land use application to referral agencies for comment.

3. *Annexation petition referral to Town Board*. Upon Staff's determination that the petition and supporting documentation are complete and in compliance with provisions of the Act and the Berthoud Development Code, Town staff shall refer the petition to the Town Board and schedule the petition for the Town Trustees to determine whether the petition is in substantial compliance with the Act.

4. *Board determination of substantial compliance*. The Town Board shall take the appropriate steps to determine if the petition is in substantial compliance with the Act.

a. If the petition is found to be in substantial compliance with the Act, the Town Board may, by the adoption of a Resolution of Substantial Compliance, set the annexation (and zoning if requested) for public hearing on a specified date, time, and place, not less than 30 days nor more than 60 days from the effective date of the Resolution, subject to compliance with C.R.S. § 31-12-108, as amended.

b. If the petition is found to not be in compliance with the Act, no further action shall be taken, except that the determination shall be made by resolution of the Town Board.

c. If the Town Board, in its sole discretion, finds that the annexation is not in the best interest of the Town, it may deny the petition by resolution.

5. *Annexation impact report*. An annexation impact report conforming to C.R.S § 31-12-108.5, as amended, is required for areas of ten or more acres and will be completed by Town Staff with information provided by the applicant in the Annexation Assessment Report. The Annexation Impact Report shall be filed with the County at least 25 days prior to the Statutory hearing.

7. *Planning Commission review and recommendations*. The Planning Commission shall review, as a regular agenda item, the annexation application at a regular or special meeting to be held prior to the date of the public hearing before the Town Board. The Commission will make a recommendation by motion to the Town Board regarding the overall annexation of the property to the Town. The Commission's motion may be to recommend approval, approval with conditions, or denial of the annexation.

   At this same meeting, the Commission may review the requested zoning of and the neighborhood master plan for the property. Notice of the Commission's review of the zoning request and neighborhood master plan shall be given in accordance with Public Hearing and General Notice section of this Code. The Planning Commission shall recommend to the Town Board approval with or without conditions, or recommend denial of the requested zoning.

8. *Town Board public hearing and action on the annexation*.

   a. The Town Board shall hold the public hearing on the petition for annexation, zoning and if necessary, the neighborhood master plan in conjunction with the annexation. The petitioners shall present evidence in support of the petition, zoning, and neighborhood master plan. Town Staff shall testify as to the elements required by statute to be present for annexation and any comments received from governmental entities affected by the annexation. Any person may appear at the hearing and present evidence on any matter related to the annexation petition as determined by the Town Board. The Town Board may continue the hearing to another date without additional notice as provided by applicable law. At the conclusion of the public hearing, the Town Board shall adopt a resolution containing the findings of fact and conclusions, including:

      i. Whether or not the requirements of C.R.S. § 31-12-104 and -105 and this Code have been met;

      ii. Whether or not additional terms and conditions are to be imposed; and

      iii. Whether or not an election is required, either as result of a petition for election or the imposition of additional terms and conditions.

   b. If the Town Board finds that the area proposed for annexation does not comply with the requirements of C.R.S. § 31-12-104 and -105, the annexation proceeding will be terminated.

   c. If the Town Board finds the following:

      i. The annexation is in compliance with the requirements of C.R.S. § 31-12-104 and -105;

      ii. That an election is not required under C.R.S. § 31-12-107 (2); and

      iii. No additional terms and conditions are to be imposed;

      The Town Board may annex the land by ordinance without election and approve any annexation agreement. The zoning of the property, if requested with annexation, shall be approved by separate ordinance.

30-3-105 Post-approval actions

A. After final passage of the annexation ordinance and the zoning ordinance, the applicant shall file with the Town final versions of all applicable documents including three mylars of the annexation map(s).

B. The official zoning map shall be amended in accordance with the zoning ordinance.

C. The applicant shall provide an electronic copy of the Annexation, Zoning and Neighborhood Master Plan in accordance with the electronic mapping standards established by the Town within 30 days of the adoption of the annexation ordinance and the zoning ordinance.

30-3-106 Public hearing notices

A. The Town shall publish notice of the public hearing for the zoning and neighborhood master plan and send by certified mail, notice of the public hearing for annexation, together with the Resolution of Substantial Compliance, petition and annexation map, to the County Commissioners, County Attorney and to any special district or school district having territory within the area to be annexed in accordance with Colorado law. In the case of a "flagpole" annexation, the Town shall also provide notice to abutting property owners as specified in C.R.S. § 31-12-105, as amended.

B. The Petitioner shall be responsible for providing notice of each public hearing (Planning Commission and/or Town Board) to the owners of the mineral estate on the property to be annexed, and to their lessees, as required by C.R.S. §§ 24-65.5-101, to -105. The petitioner shall certify to the Town Clerk conformance with this notice requirement not less than 15 days prior to the date of the public hearing(s). The petitioner's certification shall include a copy of the mailing along with the list of mineral owners and the source from which the list was derived.

30-3-107 Annexation agreement

An Annexation Agreement may be developed by the Town and if developed, the petitioner shall deliver the annexation agreement executed by petitioner prior to the public hearing before the Town Board of Trustees.

30-3-108 Annexation map technical standards

A. The annexation map shall be prepared by or under the supervision of a registered professional land surveyor licensed with the State of Colorado. The annexation map shall conform to the following standards and contain the following information. It shall be a neat, clear, permanent, legible and reproducible document. Inaccurate, incomplete or poorly drawn maps shall be rejected.

1. The annexation map shall be an original drawing on 24 inches by 36 inches flat, spliceless, tapeless and creaseless sheet(s) of double matte mylar film with a uniform thickness of not less than .003 of an inch, using only permanent black ink that will adhere to drafting films, or an acceptable "fix-line" photographic reproduction (emulsion down), or a computer generated reproduction of the original drawing. The document shall be in black and white only without grey. A margin line shall be drawn completely around each sheet leaving a margin at least one-half inch on three sides and a margin at least two inches on the left (short) side, entirely blank. Unless otherwise specified, text and numbers are to be large enough to be clearly legible at the scale drawn.

2. The annexation map shall be drafted at a scale that best conveys the detailed survey, and confines the drafting error to less than one percent. Acceptable scales are one inch equals 50 feet or one inch equals 100 feet. For annexations exceeding 100 acres an acceptable scale is one inch equals 200 feet. In special instances another scale may be approved by the Town. When an annexation requires

multiple sheets, an index shall be provided that delineates the boundaries and identifies each sheet number. The scale of a composite map may be different from the individual sheets, as approved by the Town. A "title sheet" containing the certifications and signature blocks shall be provided in the event that the annexation map sheet is too crowded.

3. The title shall be centered at the top of the sheet, along the long dimension of each sheet and shall include the name of the proposed annexation. A general legal description stating the section, township, range, ___th P.M., Town of Berthoud, Larimer and Weld County, Colorado, shall be included under the name. On the title sheet (Sheet #1), under the general legal description, include the total acreage. Annexation names may not duplicate existing annexation names.

Example of annexation map title:

NAME OF ANNEXATION
TO THE TOWN OF BERTHOUD, COLORADO

A Part of the xx of Section xx, Township ___ North,
Range ___West, ___th P.M., Town of Berthoud, Larimer and Weld County, Colorado
xx.xx Acres

4. There shall be a title block in the lower right-hand corner, or along the right-hand margin that contains the name, address and telephone number of the land owner, the developer, and the engineer or surveyor preparing the drawing, an appropriate title for the drawing, the preparation date, sheet number, the preparer's project identification numbers, revision dates, draftsman's initials, and the electronic drawing file name (matching the AutoCAD drawing file provided to the Town).

5. Adjacent to the title block, in the lower right-hand corner, there shall be a legend block which shall include a description of lines, points and symbols, a double-headed north arrow designated as true north and a written and graphic scale.

6. Adjacent to the right margin, or in a column to the right of the center of the title page if the page is crowded, there shall be the Town's standard statement of ownership containing a written metes and bounds legal description of the land to be annexed (including the full width of abutting roadways not already within the Town) followed by the owner's signature block(s) and notary block(s), one for each owner or mortgagee.

7. Immediately following the ownership certificate, there shall be the Town's standard Surveyor's certificate, signed, dated and sealed by a licensed surveyor or engineer.

8. Immediately following the Surveyor's certificate, there shall be the Town's standard certificate block for the Town Board.

9. Immediately following the Board's approval certificate, there shall be the Town's standard recording certificate block for the Larimer and/or Weld County Clerk and Recorder, if needed by the County.

10. A vicinity map that depicts the area to be annexed and the area which surrounds the proposed annexation within a two-mile radius superimposed on a current USGS Topographical Map, maintaining the same scale shall be placed on the left side of annexation map, outside the boundary of the area being annexed, or on the left side of the title sheet.

11. The annexation map drawing shall contain the following:

    a. Show the outline of area to be annexed with boldest line.

    b. For all references, show book, page, map number, etc., and place where publicly recorded.

    c. Show all recorded and apparent rights-of-way lines of roads both within and without the periphery of land to be annexed; these roads are those which are adjacent, adjoining, contiguous, and/or coincident with the boundary. Provide all road names, rights of-way widths at each leg of an intersection, at the point of curve and point of tangent, at dead ends and at angle

points; and rights of-way lines with accurate bearings and dimensions including chord lengths and bearings, central angles and radii of all curves. Whenever the centerline of a road has been established or recorded, the date and recording information shall be shown on the Annexation Map.

d. Show on the annexation map, next to the boundary of the area proposed to be annexed, a drawing of the contiguous boundary of the Town and the contiguous boundary of any other municipality abutting the area proposed to be annexed. A hatched boundary line shall be used to depict the boundary contiguous to the Town (example: ////////).

e. Show section, quarter section, and other monument corners. Display ties to section corners and to the State grid, if available, which show dimensions of all primary boundary survey control points with complete monument and location descriptions, all parcel lines showing dimensions with lengths, bearings, and curve data, including chord lengths and bearings, basis of bearings and relation to true meridian and similar data. Only circular curves shall be used. No spirals, parabolas, etc. shall be used. All dimensions are to be shown to the nearest 0.01 feet or in the case of degrees, to the nearest second. An accuracy of 1:50,000 (second order) minimum for linear and angular (bearing) closure shall be required for the boundary. All internal lots, tracts, or parcels shall have a closure accuracy of 0.01 feet.

f. Provide a description of all monuments, both found and set, which mark the boundaries of the property and of all control monuments used in conducting the survey.

g. Show the location of each ownership tract in unplatted land, and if part or all of the area is platted, the boundaries and plat numbers of plots or of lots and blocks.

h. Show the names and locations of all abutting subdivisions. The locations of all abutting unplatted parcels and public lands shall be depicted and designated as such.

i. The ownership identity of all mineral rights shall be designated on the map.

j. Show the purpose, widths, location (with fine dashed lines) and ownership of all easements and all abutting easements, including but not limited to utility, oil and gas gathering and transmission lines and irrigation ditches (fee or prescriptive). If any easement already of record cannot be definitely located, a statement of its existence, the nature thereof and its recorded reference must appear on the title sheet. The widths of all easements and sufficient data to definitively locate the same with respect to the parcel to be annexed must be shown. All easements must be clearly labeled and identified. If an easement shown on the annexation map is of record, its recorded reference must be given.

k. All lines, names and descriptions on the annexation map which do not constitute a part of the annexation shall be shown in dashed or screened lines. Any area enclosed by the annexation, but not a part thereof, shall be labeled "Not a Part of This Annexation."

l. Accurately locate 100-year floodplains, all existing and proposed watercourses, retention and detention areas, wetlands, aquifer recharge areas, streams, lakes, or inlets on the affected property.

m. Show clearly the length and bearing of all lines described in the written description.

n. Show section numbers, quarter section quadrants, township and range lines, and label each.

o. Show all lines, calls, arcs, etc., described in written description.

p. Circle or place an ellipse around each location where a detail drawing will be provided, and provide designation for each detail such as "See Detail A."

q. Show "Point of Beginning" in bold letters with an arrow.

r. Show "True Point of Beginning" with bold letters and arrow, when appropriate.

s. A map note shall indicate the total perimeter of the annexation boundary, the contiguous length to the existing Town boundary and the length representing one-sixth of the total annexation boundary perimeter.

SECTION 4 ZONING

30-4-101 Title

The regulations contained in this Section shall be known and cited as the Berthoud Zoning Code.

30-4-102 Authority

Pursuant to the authority conferred by Title 31, Article 23, Title 24, Article 67 and Title 29, Article 20, C.R.S., this Chapter is enacted for the purpose of promoting the health, safety, convenience and general welfare of the citizens of the Town.

30-4-103 Scope

This Section shall apply to all public and private property situated within the incorporated portions of the Town.

30-4-104 General Provisions

In their interpretation and application, the provisions of these zoning regulations shall be held to be minimum requirements adopted for the promotion of the public health, safety, convenience, comfort, prosperity and general welfare of the community.

A. *Uniformity of regulations.* The regulations established by this Section within each zone shall apply uniformly to each class or type of structure or land. Unless exceptions are specified in this Section, the following interpretations shall apply

B. The Town's most recently adopted Building Codes and Fire Codes shall apply to all development and redevelopment as they relate to land use and siting of structures on property.

C. Conflict with other provisions of law. Whenever the requirements of this Section are inconsistent with the requirements of any other lawfully adopted rules, regulations or ordinances, the more restrictive standards shall govern.

D. *Conflict with private covenants or deeds.* In case of a conflict between this Code and any private restrictions, the provisions of this Code shall control for purposes of enforcement by the Town. The Town shall have no responsibility to enforce private covenants or deed provisions.

E. *Zoning of annexed territory.*

1. Zoning of land during annexation shall be done in accordance with the procedure and notice requirements of this Section and the Annexation Section of this Code. The proposed zoning ordinance shall not be passed before the date when the annexation ordinance is passed.

2. Any area annexed shall be brought under the provisions of this Section and the Zoning Map concurrently, despite any legal review that may be made challenging the annexation.

30-4-102 Purpose

The purpose of this Section is to create a vital, cohesive, well-designed community to enhance the Town's character and further the citizens' goals as identified in the Comprehensive Plan, Berthoud Zoning Code, Overlay Districts, and Master Plans and Guidelines. These zoning regulations are designed to:

A. Encourage the most appropriate use of land throughout the Town and ensure logical growth of the various physical elements of the Town so that the proposed zoning and use are compatible and complimentary to adjacent and surrounding land uses.

B. Provide aide in determining the proposal's consistency with the Comprehensive Plan and land use designation on the Future Land Use Map and how the proposed zoning designation meets the applicable standards found in the zoning section of this Code, including housing diversity standards, design requirements and neighborhood identity features.

C. Regulate and restrict the location and use of buildings, structures and land for residence, business, trade, industry or other purposes.

D. Regulate and determine the size of building lots, yards and other open spaces.

E. Promote quality development, ensure efficiency in land use, lessen congestion and increase safety in travel and transportation, and encourage development that supports the long-term stability and livability of the Town.

F. Promote the health, safety and general welfare of Town residents.

30-4-103 Zoning districts and boundaries

A. *Zoning Districts.* In order to carry out the provisions of this Code, the Town is divided into the zone districts listed below. A description of each zone district and the bulk requirements for each can be found after the Land Use Table.

1. UR — Urban Residential District
2. UC — Urban Commercial District
3. SR — Suburban Residential
4. SC — Suburban Commercial District
5. CD — Conservation District
6. AG — Agricultural District
7. R1 — Single Family District
8. R2 — Limited Multi-Family District
9. R3 — Multi-Family District
10. R4 — Mixed Use District
11. R5 — Manufactured/Mobile Home District
12. C1 — Neighborhood Commercial District
13. C2 — General Commercial District
14. M1 — Light Industrial District
15. M2 — Industrial District
16. T — Transitional District [After January 1, 2026, the Transitional District shall no longer be assigned]
17. PUD — Planned Unit Development Overlay District

B. *Official zoning map*. The boundaries and classifications of districts established are as depicted on a map entitled Town of Berthoud Official Zoning Map. The Zoning Map may from time to time be revised, updated or redrafted. The Zoning Map adopted and to be used for reference shall be that map bearing the most recent date of publication which has been signed by the Chair of the Planning Commission and the Mayor.

1. *Interpretation of zoning district boundaries*.

    a. In the event uncertainty exists on the zoning map, district boundaries shall be on section lines, lot lines, the center lines of highways, streets, alleys, railroad rights-of-way or such lines extended; municipal corporation lines; natural boundary lines such as streams; or other lines to be determined by the use of scales shown on the map.

2. *Amendment upon zoning or modification*. Upon enactment of any ordinance annexing and establishing zoning or modifying existing zoning for any property, and upon date the ordinance is effective, the Town shall amend the prior existing Zoning Map to include the annexed area with the proper zoning classification or show the amended classification. Such updated official map shall contain, in table form, the date and number of the ordinance amending it, the title of the change, the date the map was amended to reflect each amendment and the initials of the person who checked and approved the change to the map.

3. *Cost for amending zoning*. Any person who petitions zoning for property being annexed or petitions to modify existing zoning shall bear the entire cost of amending the Zoning Map, including all notification costs. The Town shall provide applicants with a copy of the current fee schedule and a fee agreement form upon request.

4. *Public inspection; storage of original*. A copy of the Zoning Map shall be available and on display at the Town Hall during normal business hours. In addition one copy of the current Zoning Map, and all prior Zoning Maps that have been adopted, shall be held in a secure place by the Town Clerk, who shall act as custodian thereof, and the map shall not be amended, changed, updated or otherwise modified or let out of direct control of the Town Clerk for any reason whatsoever. The secured map is to be released for inspection only upon authorization of the Town Clerk.

30-4-104 Zoning and land uses

A. General application of uses. Uses contemplated in the Town's Zone Districts can be found in the Land Use Table. Those uses listed on the table with a "P" require approval of a Site Plan Permit; with an "S" require approval of a Use by Special Review Permit; and with a "B" require approval of a Building Permit following land use approval, as may be required. Those land uses not specifically listed on the Land Use Table shall be presumed to be prohibited. A change in land use may necessitate a land use permit as found in the Land Use Table.

Land Use Table

Land uses contemplated in the Town's Zone Districts are found in the table below. Those uses listed on the table with a "P" require approval of a Site Plan Permit; with an "S "requires approval of a Use by Special Review permit; and with a "B" require approval of a Building Permit following land use approval, as may be required. Those Land uses not specifically listed on the Table shall be presumed to be prohibited. A change in land use may necessitate a land use permit as listed below.

Land Use	Zone District														
	AG	CD	SR	SC	UR	UC	R1	R2	R3	R4	R5	C1	C2	M1	M2
Residential Land Uses															
Dwelling, single-family detached	B	B	B		B		B	B	B	B	B				
Dwelling, two family; Dwelling, single-family attached; Duplex/Paired Home			B		B		B	B	B	B					
Dwelling, Clustered home, Single-family detached or attached			B		B										
Dwelling, Townhome, Multi-family dwelling, Apartment, Condominium (3 or more units)			P	P	P			S	P	P					
Manufactured/mobile home and park											P				
Accessory dwelling unit associated with a permitted use, See Section regarding Accessory Uses	B	B	B, Dwelling, single family detached		B, Dwelling, single family detached		B	B, Dwelling, single family detached							

Land Use	Zone District														
	AG	CD	SR	SC	UR	UC	R1	R2	R3	R4	R5	C1	C2	M1	M2
Mixed Land Uses															
Bed and breakfast establishments	P		P		P in Single-Family Detached or Single Family Attached		S	S				S			
Boarding and rooming houses								S	S	S		S			
Single-room occupancy boarding house	P		P		P		P	P	P	P		P			
Caretaker dwelling												S	S		
Child care home (up to 12 persons)	B	B	B		B		B	B	B	B					
Family care, elderly day care homes	P	S	P, Dwelling, single family detached		P, Dwelling, single family detached		P	P	P	P		P			
Group care facility	P		P , Dwelling, single family detached		P , Dwelling, single family detached			P	P	P		P	P		
Live-work units and buildings					P	P				P		P	P	S	S
Mixed use buildings (residential, commercial, office, workshops, etc.)				P		P				P		P	P	S	S

Land Use	Zone District														
	AG	CD	SR	SC	*UR*	UC	R1	R2	R3	R4	R5	C1	C2	M1	M2
Commercial, retail or service land uses															
Adult-oriented use/sexually-oriented use															S
Agricultural activity	P	P		P											
Appliance sales and service				P						S		P	P	P	P
Automotive repair - minor				S						S		S	P	P	P
Automotive repair - major				S									S	P	P
Banks and financial institutions with or without drive through and/or ATM kiosks				P		P				P		P	P	P	P
Bars/taverns/micro-breweries				P		P				P		P	P	P	P
Professional offices (professional offices for attorneys, realtors, service contractors, administrative services, and similar service providers)				P		P				P		P	P	P	P
Car/motor vehicle washes				P									P	P	P
Child care center	S			P			S	S	S	P		P	P	P	
Clinic, addiction treatment														P	P
Cremation facility														S	S
Commercial and retail businesses, indoor sales and service				P		P				P		P	P	P	P
Contractor's office/shop				S						P		P	P	P	P
Distillery including tasting room and retail sales				P						P		P	P	P	P
Entertainment facilities, commercial theatres, etc.				P						P		P	P		
Equipment rental (small) establishments without outdoor sales												S	P	P	P
Equipment rental (heavy) establishments with outdoor sales														S	P
EV Charging, Principal Use	S		S	P	P	P	S	S	P	P		P	P	P	P
EV Charging, Accessory Use	P		P	P	P	P	P	P	P	P		P	P	P	P
Fireworks sales - temporary				P								P	P	P	
Gasoline station				P		S				S		S	P	P	P

Land Use	Zone District														
	AG	CD	SR	SC	UR	UC	R1	R2	R3	R4	R5	C1	C2	M1	M2
Commercial, retail or service land uses continued															
Gas, oil and other hydrocarbon well drilling and production, See Oil and Gas section	S													S	S
Plant nursery and Greenhouses, public or private	P	P		P						P		P	P	P	P
Grocery store, small (less than 25,000 square feet of floor area)				P		P				P		P	P	S	S
Grocery store, large (greater than 25,000 square feet of floor area)				P		P				S		S	P	S	S
Home Occupations, See Section regarding Home Occupation, "P" indicates a Home Occupation Permit is needed	P	P	P		P		P	P	P	P	P	P			
Hospital				P		P	S	S	S	S		P	P	P	S
Hotel/motel/lodging establishment (no room limit)				P		P				S		S	P	P	
Inn (up to 12 rooms)				P		P				P		P	P	P	
Kennel - small animal	P			P		P				P		P	P		S
Laundry and dry cleaning retail outlet				S						S		P	P	P	
Marina	P			S						P			P		
Medical and dental offices/clinics				P		P	S	S	S	P		P	P	S	S
Allowed Marijuana Business, See Section regarding Marijuana Businesses														S	S
Mixed Use Building (Building with a variety of uses including Commercial and Residential)				P		P									
Movie theater				P						P		P	P	P	
Parking lots and parking garages (as principal use)				P						S		S	P	P	P

Land Use	Zone District														
	AG	CD	SR	SC	UR	UC	R1	R2	R3	R4	R5	C1	C2	M1	M2
Commercial, retail or service land uses continued															
Natural Medicine Healing Center, see Section on Natural Healing Centers and Other Natural Medicine Businesses												P	P		
Passenger terminal or park-n-ride				P						P		P	P	P	P
Personal and business service shops				P			S			P		P	P	P	P
Push-cart (sidewalk/mobile vending)						P				P		P	P	P	
Recycling facilities (including biofuel) processing and sales														S	S
Restaurant not including drive-through				P		P				P		P	P	P	P
Restaurant with drive-through				S		S				S		S	P	P	P
Retail sales building/center < = 50,000 gross square feet				P		P				P		P	P	P	P
Retail sales building/center > = 50,000 gross square feet				P		P				S		S	P	P	P
Retail and supply yard establishments with screened outdoor storage				S									S	S	S
Roadside or temporary retail stand/tent	P			S						S		P	P	P	P
Sales of farm implements, heavy equipment, Mobile/ manufactured homes															P
Short-term Rental (max. 10 guests), See Section on Short Term Rental			P		P		P	P	P	P		P			
Storage facilities, outdoor storage for RV's, boats, trailers, etc.														S	S
Storage facilities - enclosed														S	S

Land Use	Zone District														
	AG	CD	SR	SC	UR	UC	R1	R2	R3	R4	R5	C1	C2	M1	M2
Commercial, retail or service land uses continued															
Truck depot				S									S	P	P
Vehicle sales including automobiles, motorcycles, RV's, boats and trucks				S									P	P	P
Veterinary facilities, small animal clinic with no outside kennels	P			P		P				P		P	P	P	P
Veterinary facilities, small animal clinic with outside kennels	P			S		S				S		S	S	S	S
Veterinary hospitals - small animals	P			P		P				P		P	P	P	P
Veterinary hospitals - large animals	P			S								S	S	S	S
Public, quasi-public, other land uses															
Accessory buildings and uses	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P
Alternative power generation facilities	S						S	S	S	S	S	S	S	S	S
Bus shelters	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P
Cemetery	P						S	S	S						
Clubs and lodges										P		P	P	P	
Community Garden	P	P	P	P	P	P	P	P	P	P	P	P	P		
Conference / convention center, see Places of Assembly															
Farmer's market				P		P				S		P	P	P	P
Fire station	P			P		P	S	S	S	S		P	P	P	P
Municipal uses without equipment yards										S		P	P	P	P
Municipal uses with equipment yards														P	P
Museum	P			P		P	P	P	P	P		P	P	P	
Parks and open space	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P
Amphitheater, outdoor	P		S	S	S	S									

Land Use	Zone District														
	AG	CD	SR	SC	UR	UC	R1	R2	R3	R4	R5	C1	C2	M1	M2
Commercial, retail or service land uses continued															
Public utility	P		P	P	P	P	P	P	P	P	P	P	P	P	P
Places of assembly (neighborhood scale)	P		P		P	P	S	S	P	P	S	P	P	P	P
Places of assembly (medium)	P		S	P	P	P			S	P		P	P	P	P
Places of assembly (large)					S	P						P	P	P	P
Rest stop	P									P		P	P		
Schools - public and private (preschool - grade 12)	P		P	P	P	P	P	P	P	P		P	P	P	
Schools - colleges, vocational and technical training				P		P						S	P	P	P
Wireless telecommunications facility	P		S	P	S	P				S		S	P	P	P
Industrial land uses															
Data Center															S
Laboratory and/or research facility										S			S	P	P
Industrial, light										S			P	P	P
Industrial, heavy															P
Manufacturing, including assembly, sales and service of commodities														P	P
Other Natural Medicine Businesses, see Section on Natural Healing Centers and Other Natural Medicine Businesses														S	S
Warehouse and distribution													S	P	P
Workshops and custom small industry	S		S			P				P		P	P	P	P

30-4-105 Zoning districts, area and bulk requirements

A. This section describes the intent of each Zone district and provides the area and bulk standards for each Zone district. The uses allowed in each Zone district can be found on the Land Use Table.

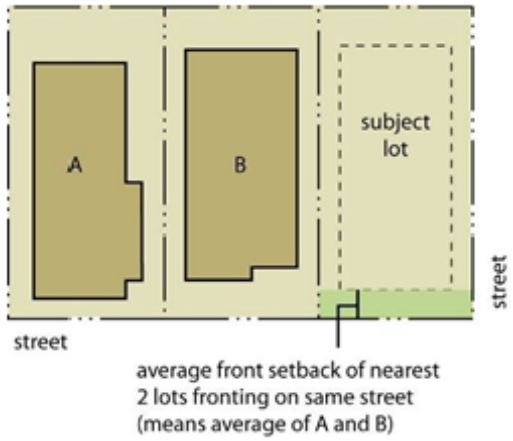
B. Measurement of residential density. Allowable or maximum residential densities as identified in this Code will be measured as gross densities where the number of residential units is divided by the total acreage of the subject property.

C. The Design Standards of this Code apply to all properties. Overlay Districts and Master Plans affecting individual properties shall be evaluated during the land use and subdivision processes. The independent Architecture Standards and the Landscape Design Guidelines shall apply to all development and redevelopment.

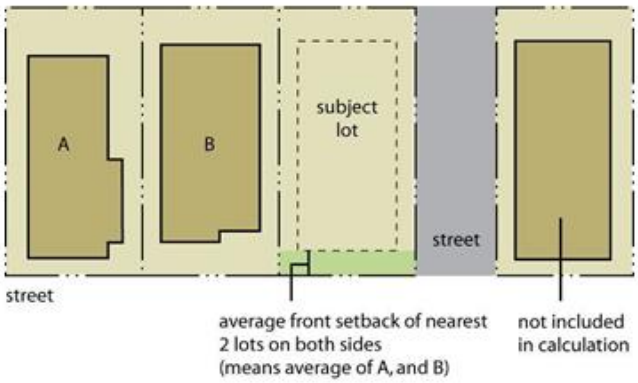
D. For all Zone Districts, refer to the latest Comprehensive Plan for details regarding the intent of each Character District. Refer to the statements below regarding each Zone District.

E. *Infill Requirements.*

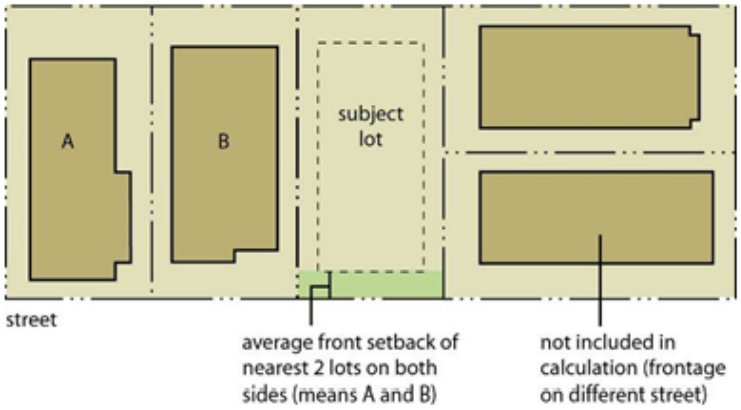
1. *Infill Front Setback*: Contextual front setbacks shall be as deep as the average front setback that exists on the nearest developed lots on the same block that front on the same side of the street as the subject lot, in accordance with the following figure:



2. Lots that front on a different street than the subject lot or that are separated from the subject lot by a street may not be used in computing the average. See the figure below:

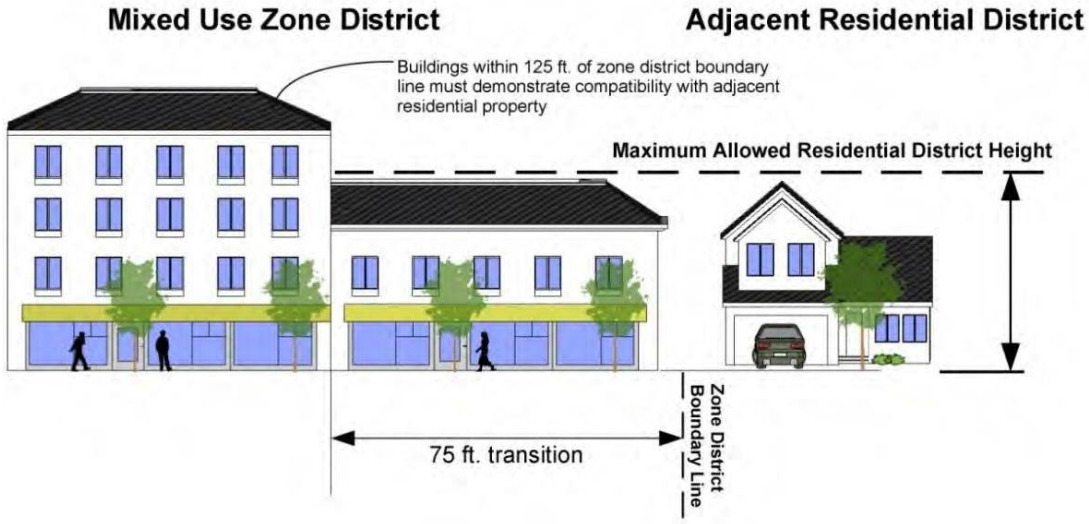


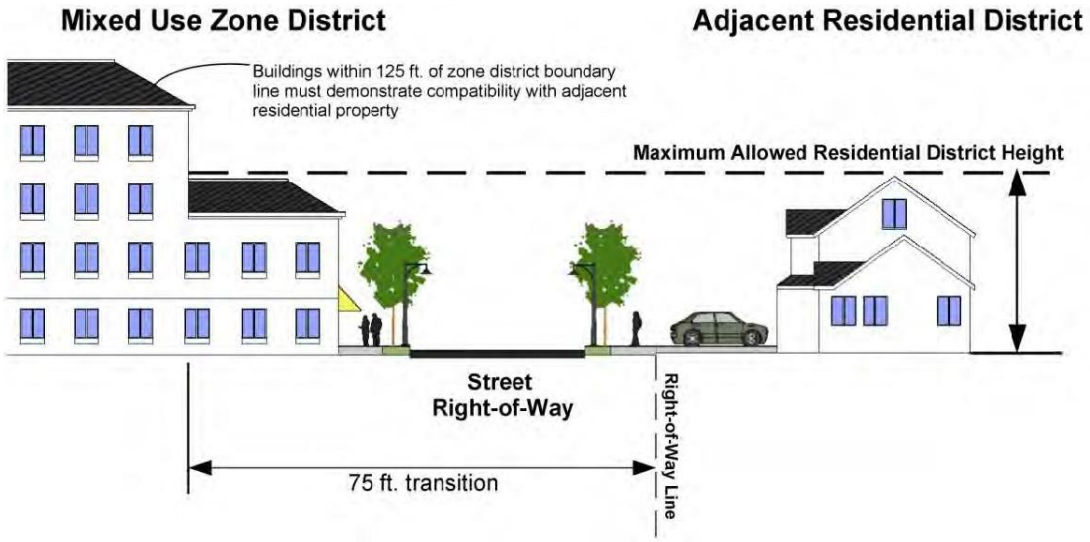
3. When the subject lot is a corner lot, the average setback will be computed on the basis of the two nearest developed lots that front on the same side of the street as the subject lot. Refer to the figure below:



4. When the subject lot abuts a corner lot fronting the same street, the average setback will be computed on the basis of the abutting corner lot and the nearest two lots that front on the same street as the subject lot.

F. *Height Transitions*. Any portion of a building located within the R-4, Mixed Use Zone District and within 75 feet of the boundary of a property zoned R-4, shall have a maximum height no greater than the maximum height allowed in the adjacent zoning district. Where a street separates the zoning districts, the measurement shall be from the street right-of-way line opposite the R-4 District. Refer to the following diagrams:





G. Zone District Descriptions, area and bulk standards.

1. *UR and UC, Urban Residential and Urban Commercial Districts.* The intent of the Urban Residential (UR) and Commercial (UC) Districts is to provide for a variety of housing types and limited commercial uses in a dense, walkable environment built at a human scale. The following Tables provide area and bulk requirements. Refer to the Land Use Table for different uses allowed in the Urban Residential and Urban Commercial Zone Districts through the development review process.

Table: Urban Residential Dimensional and Bulk Standards					
	Urban Residential Detached House	*Paired Homes/ Duplex*	*Townhouse/ Row House*	*Clustered Home*	*Apartments/ Condos*
Maximum building height	30'	30'	30'	35'	40' and refer to height transition graphic
Maximum density of units per acre	14	16	22	24	5 buildings
Maximum lot coverage	80% for lots 3,500-6,000 sf, 70% for lots more than 6,000 sf and up to but not including 1 acre, 50% for lots 1 acre or greater	75%	85%	85%	70%
Side Wall Height, for Pitched Roof, within 15' Side Street (max)	25'	25'	24' max or 2 stories	24' max or 2 stories	24' max or 2 stories
Minimum lot width:	25'	20'	16'	For site: 100’ for all buildings; 25’ min. For each lot/unit Street-facing: 40’	50'
Front Yard setback :	8'-12'	8'-12'	8'-12'	—	20'
Rear yard setback with rear loaded garage	5 – 8’	5 – 8’	5 – 8’	10'	10' alley, 20' no alley
Side setback:	5'	0' attached, 5' side lot line	0' attached, 5' side lot line for end units	7.5'	20' all sides
Corner Side setback	10' unless greater is needed for utility easements. When adjacent to open space that is at least 10’ wide, the lot is not considered a Corner lot and standard corner side setbacks shall apply.				□
Vehicle Access/Garage:	Alley'; if no alley, a 12' max side driveway to detached garage to the rear of the principal structure	Alley Only	Alley Only	Alley or Rear loaded	Internal to site No surface parking between primary street or side street

Pedestrian Access:	Through an entry feature such as porch or stoop to primary street.	Entry Feature such as porch or stoop to primary street.	Entry Feature such as porch or stoop to primary street	Entry Feature such as porch or stoop fronting shared common space	Entry feature such as porch/stoop fronting common space
Accessory Structures: Also see the Accessory Uses and Structures section of this Chapter					
Accessory Structure	Accessory Dwelling Unit (ADU)/ Detached Garage	Detached Garage	Detached Garage	Detached common garage structure or attached one-car garage per unit	Detached common garage structure
Max Height (not to exceed height of primary structure):	ADU: 25' Garage: 17' unless combined with ADU, then 25’	17' (1 story)	17' (1 story)	17' (1 story)	17' (1 story)
Side Setback:	ADU: 5’ for one story, 10' for two stories Garage: 5'	0' (maintenance easement required for garages with a setback of 3' or less)	5'	10'	10'
Rear Setback:	ADU: 5'-8’ Garage: 5'	5'	5'	10'	10'
Setbacks for all other Accessory Structures (pools, gazebos, etc.)	5’; however never allowed in an easement				
Garage Type	—	—	—	—	Attached garage, max one car per Dwelling Unit

Table: Urban Commercial Standards	
Maximum building height	40 for mix use building/30' for commercial only
Lot Size Minimum for all attached buildings	3,000 sq. ft
Lot width	24'
Front Setback/Build to Line Min/Max	75% to 0'; 10' max (courtyard only)
Side Wall Setback Height (end units abutting public street)	24' Max; or 2 stories
Side Setback	7.5'
Side Setback entire site and for interior abutting buildings	10'
Rear Yard	10' alley; 20' no alley
Parking	No surface parking between primary street or side street
Vehicle Access/Garage	Alley or Rear loaded Street only; no drive-throughs
Pedestrian Access	Entry Feature
Glazing/Transparency	60% primary street; 25% side facing street

2. *SR and SC, Suburban Residential and Suburban Commercial Districts.* The intent of the Suburban (SR) Residential and the Suburban Commercial (SC) Districts is to provide for neighborhoods with primarily single-family detached and single-family attached (townhomes and paired homes) residential structures, as well as limited commercial uses.

   a. *Suburban Residential Sustainable Landscaping Standards.*

      1. . Any development or platted final plat with five or more units shall retain a licensed landscape architect to prepare landscape plans for front yards. To the greatest extend possible, these landscape plans should vary in design between adjoining lots. Refer to the Landscape Design Guidelines for all landscape requirements.

         a. Front yard landscaping should visually integrate the adjacent natural landscape where applicable.

         b. Trees must be planted ten feet away from utility lines.

         c. Each front yard should have at least one ornamental tree. Front yard trees should be of at least one and one-half-inch caliper in size.

      2. See the Section regarding Encroachments into setbacks and easements for all districts in this Chapter for additional information.

Table: Suburban Residential Standards				
	Suburban Detached House	Duplex/ Paired Home	Townhomes	Clustered Homes
Maximum building height	30’	30’	30’	35’
Minimum lot width at required front yard setback line	40’	20’	16’	For site: 100’ for all buildings; 25’ min. For each lot/unit Street-facing: 40’
Maximum lot coverage	80% for lots 3,500-6,000 sf, 70% for lots more than 6,000 sf and up to but not including 1 acre, 50% for lots 1 acre or greater	75%	85%	85%
Front yard setback with Front loaded garage	20’	20’	N/A	N/A
Front Yard setback with Rear loaded or no garage	10’	10’	10’	10’
Front Yard setback with Side loaded garage (only for garage portion)	10’	10’	10’	N/A
Rear yard setback with front loaded garage	20	20	N/A	N/A
Rear yard setback with rear loaded or no garage	5-8’	5-8’	5-8’	5-8’
Side setback	5’	0' attached, 5' side lot line	0' attached, 5' side lot line for end units	7.5’
Corner Side setback	10’ unless greater is needed for utility easements When adjacent to open space that is at least 10’ wide excluding tree lawns and sidewalks, the lot is not considered a Corner lot and may assume standard corner side setbacks.			
Buffering	On Arterial: A 30' perimeter buffer is required from all arterial streets. On Collectors: A 20' perimeter buffer is required from all collector streets.			
Maximum density per acres	14	11	22	28
Vehicle Access/Garage	Alley; if no alley, a 12' max side driveway to detached garage to the rear of the principal structure	Alley Only	Alley Only	Alley or Rear loaded
Pedestrian Access:	Through an entry feature such as porch or stoop to primary street.	Entry Feature such as porch or stoop to primary street.	Entry Feature such as porch or stoop to primary street	Entry Feature such as porch or stoop fronting shared common space

Garage:	Garage doors shall not extend across more than 50% of the street facing façade of the primary residential structure	Alley/Rear-Loaded Only. Front access garages are prohibited.
Setbacks for all other Accessory Structures (pools, gazebos, etc.)	5’; however never allowed in an easement	
Four-Sided Architecture:	Side or rear elevations shall not be a solid blank wall with no articulation; structures shall be designed so as to break up long walls by the use of offsets, shadow lines, façade treatments and the architectural theme on the front of the house shall be continued on the sides and rear of the structure to maintain the integrity of design throughout the structure.	

Table: Suburban Commercial Standards	
Maximum building height	40' (see height transition)
Minimum Lot Area	4,000 sq. ft.
Front yard and Corner Lot Build to Line Min/Max	50% of Building within 10' min.
Side Build to Setback	50% of the Building within 10'
Rear yard	10’
Drive Thru	Shall not be accessed from primary street or be located in front or corner side yard.
Drive Thru Screening	Berm, garden wall or landscaping so drive aisle is not visible from ROW.
Surface Parking	No parking shall be located forward of the building, and only 20% of parking is permitted in the side yard.
Road Access:	Access shall be primarily from secondary streets; individual curb cuts shall be minimized to the greatest extent possible on primary streets.
Pedestrian Access:	Architectural emphasis from the street through use of a courtyard; or columns; or tower element; or a covered porch
Architecture/Design	See the Section on the Mountain Avenue East Architecture Guidelines

3. *CD Conservation District.* The Conservation District (CD) is intended to provide for primarily low-density housing types and large areas of conservation.

    a. *Overall Layout, Density, and Process.*

        i. *Layout:* Sites should be designed in a rural style with buildings built far from the street and other property lines according with the requirements of this section.

        ii. *Approval:* The Town PORT Committee will review any conservation subdivisions which desire to dedicate open space to the Town and make a recommendation to the Town Planning Commission and Town Board.

        iii. *Water:* All Conservation Subdivisions will be required to either possess a non-pot water system or water rights to satisfactorily irrigate an agricultural property of medium water usage crops. A water study will be required at the Town's discretion to ensure this requirement is satisfied.

iv. *Trail Corridor:* All properties abutting the Little Thompson River, or a Town designated Regional Trail as per the Town's Comprehensive Plan and Trails Master Plan, shall dedicate the necessary easement or ROW for a regional trail, as determined by the Town.

v. *Parks, Open Space Elements and Subdivision Identity:* Rural Residential and Conservation Districts are exempted from the Parks requirements, Open Space elements and Subdivision Identity Standard requirements found in the Design Section of this Chapter.

vi. *Contiguous:* All property included within a conservation development shall be contiguous.

vii. *Residual and Developed Land:* All conservation developments shall consist of two segments: (1) the development cluster or clusters, on which the residential units are located, and (2) the designated private residual land to be held in conservation. The minimum size for residual land is 35 acres.

viii. *Percentage of Developable/Conversation Land:* The following minimum percentages of land are required in cluster and residual segments:

Table: Conservation Development Site Allocation Standards

The underlying density may increase by up to 30% more than the underlying density found in the Conservation Development Standards table

Conservation Development Type	Required Residual Land in Conservation (%)	Permitted Developable Land in Cluster(s) (%)
No public water/sewer	80	20
Provides public sewer	80	20[1]

ix. *Density:* As per the Conservation Development Site Allocation Standards Table, 80 percent of the total project (35 min. acres) must be reserved as conserved residual land as provided in this Section. The remaining 20 percent can be developed with a density consistent with Larimer and Weld County septic standards (no less than two acres); i.e. for a quarter-section sized conservation subdivision, 128 acres would be required for open space, and the remaining 20 percent of 32 acres of developable area shall be developed at a density of two acres, or 16 dwelling units. On lots served by Town sewer, the number of development lots within the 20 percent developable area, may increase by 30 percent.

x. *Residual Land:* All residual land shall be maintained and remain undeveloped in perpetuity in accordance with appropriate use plan for residual land and/or common area as provided in of this Code.

Table: Conservation Development Standards

Dimensions	Conservation Subdivision Primary Structure	Accessory Buildings
Individual Lot Size	Must comply with existing Larimer or Weld County Septic Standards (no less than 2 acres). If on sewer, no lot size requirement.	N/A
Density	80% of 35 acre minimum must be reserved in residual tract, remaining 20% can be developed with a density consistent with Larimer and Weld County septic standards (no less than 2 acres)	N/A

Maximum lot coverage	20%	5%; Sum of lot coverage of primary structure and accessory building not to exceed 20%
Maximum Building Height	30'	0'
Front Yard Setback	See Building Envelope	Must be behind the principal structure
Rear Yard Setback:	See Building Envelope	15'
Side Yard Setback	See Building Envelope	10'
Conservation Easement Total Minimum Size	35 acres	N/A
Proportion in Conservation Easement/Dedicated Open Space	80%	
Access:	No direct individual driveway access on Primary Roads; private streets required for interior streets and access	

4. *AG Agricultural District.* The AG District provides for the continuation of agricultural activities on property annexed to the Town. Newly annexed areas that are predominately used for agricultural purposes may be zoned AG until other zoning is requested by the property owner. Agricultural zoning is intended to either support the continued agricultural activity on open farmlands near the Berthoud community or be used as a temporary "holding" zone until development at an urban scale is proposed.

a. *Maximum density.* Development in the AG District is limited to one residential unit per acre where connection to public water and wastewater systems is present, and one unit per 2.29 acres for properties without connection to public water or wastewater systems.

5. *R1 Single Family District.* The R1 District provides for the development of low to moderate density single family residential dwellings.

6.. *R2 Limited Multi-Family District.* The R2 District provides for the development of areas containing low to moderate density with both single and multi-family residential uses.

7. *R3 Multi-family District.* The R3 District is a moderate to higher-density residential zone that allows the development of multiple dwelling units on the same lot.

8. *R4 Mixed Use District.* The purpose of the R4: Mixed Use Zone District is to allow for the development of variety of residential, commercial, business and employment land uses within pedestrian-oriented neighborhoods.

Table: Traditional Residential and Agricultural Standards

Dimensions	R-1	R-2	R-3	R-4	R-5	AG
Maximum Density of dwelling units Per Gross Acre	6 Dwelling units	12 dwelling units	16 dwelling units	20 dwelling units	12 dwelling units. Additional Density for modular home, or tiny house/park model developments may be considered as a use by Special Review.	1 dwelling unit (unless on septic)
Maximum lot coverage	80% for lots 3,500-6,000 sf,				70%	15%

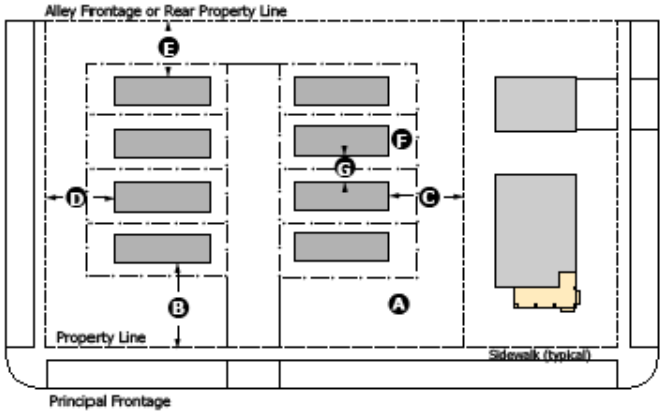
	70% for lots more than 6,000 sf and up to but not including 1 acre, 50% for lots 1 acre or greater					
Maximum building height	35	35	40	50. Height Transition required as provided in the Design Standards Section, as well as the Infill and Height Transition Sections	16	40
Minimum lot width at required front setback line :	30	20	16	16		150
Zero lot line: minimum lot width for each residential unit. Units may be located on the lot at zero feet from one side lot line, if there is a maintenance agreement by the owner of the lot adjacent. Off-setting setbacks, setbacks of 0 ft. and 10 ft. are allowed in each district.	N/A	20’	16’	16’	N/A	N/A
Minimum setback						
Front yard Front loaded (with garage)	For properties with a 7-foot or wider tree lawn, the required front setback to a front porch may be reduced by 7 feet				25 (entire park)	25
Front Yard Rear loaded (rear, or no garage)	15	10	10	10	25 (entire park)	25
Rear yard with front loaded garage	20. 10’ setback on rear yards to any deck, including covered decks and patios.	10	10	10	15 (entire park)	25
Rear yard with rear loaded garage	5-8	5-8	5-8	5-8	15 (entire park)	25
Side Multi-Family with 3 Stories	5	5	5 10	5 10	15 (entire park)	15
Side-loaded Garage	Side-loaded garages are allowed a 10' front setback for the garage portion.					

Corner Side.	10’ unless greater is needed for utility easements When adjacent to open space that is at least 10’ wide excluding tree lawns and sidewalks, the lot is not considered a Corner lot and may assume standard corner side setbacks.				15 (entire Park)	15
Infill Front	Infill Front setbacks as provided in Infill /Transition Sections					
Accessory Structures: Also see the Accessory structures section of this Chapter.						
Accessory Structure setback from all property lines.	5’, however never allowed in an easement. Excludes garages with vehicle access on corner side lots, which will follow the regular setbacks of the zoning district					
Accessory Structure maximum height	30’	30’	30’	30’	30’	30’
Front covered porches	10’ setback, however never allowed in an easement.					
Buffer from adjacent streets, minimum depth depending on overlay district and utility easement requirements	On Arterial: A 30' perimeter buffer is required from all arterial streets. On Collectors: A 20' perimeter buffer is required from all collector streets. Measurement is made from the back of the curb including tree lawn and sidewalk.					
Permanent buffer from adjacent residential zones				A permanent landscape buffer consisting of a hedge or evergreen plant material, or a solid wall or fence for Mixed Use buildings or commercial uses.		

9. *R5 Manufactured/Mobile Home Park District.* The intent of this district is to provide for the development of manufactured home parks and subdivisions. Mobile Home Parks or subdivisions are also included within this District.

   b. *Open space required.* Development in the R5 District shall provide public open space (parks, trails, open lands) per the Design Standards Section of this Code.

Dimensional Standards for Manufactured Home Parks and Structures for the R5 Zone District.



DIMENSIONAL STANDARDS

A	Lot Width, Manufactured/Mobil Home Park:	N/A
A	Lot Area, Manufactured/Mobile Home Park:	5 acres min.
B	Setback, Front Yard, Manufactured/Mobile Home Park:	25' min.
C	Setback, Side Yard, Manufactured/Mobile Home Park:	15' min.
D	Setback, Corner Side Yard, Manufactured/Mobile Home Park:	15' min.
E	Setback, Rear Yard, Manufactured/Mobile Home Park:	15' min.
F	Lot Area, Individual Unit:	3,000 sq.ft. min.
G	Setback, Individual Unit:	10' min. between structures[1]

BUILDING HEIGHT STANDARDS



Principal Building
16' max.

1. Manufactured homes may be set up anywhere within the confines of the pad site, provided there is a minimum of ten feet between all buildings.

10. *C1 Neighborhood Commercial District.* The Neighborhood Commercial District is intended to provide for the development of mixed use, retail, commercial and service businesses to support residential neighborhoods. New development or redevelopment in this district should be scaled in size to fit the adjacent neighborhood. This District does not support larger retail, public, religious or other uses commonly referred to as "big box" type uses.

11. *C2 General Commercial District.* The C2 District is intended to be a setting for the development of a wide range of service businesses, retail uses, offices and personal and business establishments.

This District supports both smaller (neighborhood) commercial and retail uses as well as larger uses (commercial, retail, religious, etc.) commonly referred to as "big box" uses.

12. *M-1 Light Industrial District.* This district is intended to provide locations for a variety of workplaces including light industrial uses, research and development offices and institutions. This district is also intended to accommodate secondary uses that complement and support the primary workplace uses, such as hotels, restaurants, convenience shopping, and child care.

13. *M2 Industrial District.* This zoning district is intended to provide a location for a variety of employment opportunities such as manufacturing, warehousing and distributing, indoor and outdoor storage and a wide range of commercial and industrial operations.

Table: Traditional Commercial and Industrial Standards

	C-1	C-2	M-1	M-2
Maximum Density Per Gross Acre	20 Dwelling units	16 dwelling units	N/A	N/A
Maximum building height	50‘	50’	40’	50’
Minimum lot width at front yard setback line :	25‘	50’	50’	50’
Minimum setback:				
Front yard (building must be built on/to front/street facing setback line)	0'	25’ In the case of large buildings for employment, storage or auto-related uses where greater setbacks are needed, a minimum of 30 percent of the building shall be brought forward to the front/street facing setback line	25’	20’
Rear yard	0', or 20'when adjacent to zoning district boundary	35’	20’	20’
Side:	0’, or 20' when adjacent to zoning district boundary	0’, or 25’ when adjacent to zoning district boundary	0’, or 20’ when adjacent to zoning district boundary	0’ or 20’ when adjacent to zoning district boundary
Corner Side	0’	0’, or 25’ when adjacent to zoning district boundary	20’	20’
Setback at property line from adjacent residential zones	35’	35’	35’	35’
Permanent buffer from adjacent residential zones	Required screening consists of a hedge or evergreen plant material, or a solid wall or fence.			

14. *Transitional District.* The T, Transitional District is to accommodate properties which are in a transitional stage with regard to their ultimate use or plans for development.

a. No use shall be permitted except such use as existed on the date the property was placed in this zoning district. No permanent structures shall be constructed on any land in this district, except that which is expressly authorized by the Town Board at the time of zoning property into this district. The Town Board of Trustees may grant a variance permitting expansion of any existing use, or installation or enlargement of a permanent structure to be used in connection with the use of the property, at the time of such zoning upon the following conditions:

i. The owner of the property, prior to the Town Board meeting at which the zoning is to be heard, shall submit a site plan showing in reasonable detail the proposed expansion of current use or installation of permanent structure on the property.

ii. The Town Board shall grant such variance upon a finding that the strict application of the zoning ordinance would result in exceptional or undue hardship upon the owner of the property and that the variance may be granted without substantial detriment to the public good and without substantially impairing the intent and purposes of this code.

15. *Planned Unit Development (PUD) Overlay District.* The Planned Unit Development (PUD) Overlay District was used as an overlay zone to supplement one or more underlying standard zone districts as found in this Code. The PUD Overlay District is no longer available as an option to zoning. Previously-approved PUDs are recognized. Any unimproved property with an approved PUD is encouraged to rezone their property to a zone district recognized in the Town's Zoning Chapter of the Development Code. Amendments to an existing PUD Overlay District will require the applicant to rezone the property and provide a Neighborhood Master Plan. Further subdivision processes may be required.

30-4-107 Encroachments into setbacks and easements — all districts

A. General Rules

1. Nothing may encroach into or overhang an easement unless specifically permitted in this section.

2. Setbacks and easements serve different purposes:

a. *Setbacks* may allow certain building features to extend partially into them.

b. *Easements* (utility, drainage, etc.) must remain generally clear, with very limited exceptions.

B. *Permanent features allowed in setbacks.* The following features may project into required setbacks only to the limits shown. They are never allowed within easements, unless stated otherwise.

1. Architectural features (cornices, canopies, eaves, similar) may encroach up to 2 feet into a required setback.

2. Balconies more than 10’ above the sidewalk may encroach up to 5 feet into the front setback**.**

3. Bay or cantilevered windows more than 10’ above the sidewalk may encroach up to 5 feet into the front setback and up to 2 feet into side/rear setbacks.

4. Steps, ramps, and landings to the principal building entrance may encroach up to 6 feet into a required setback.

5. Fire escapes and window wells may encroach up to 50% of the required setback dimension.

6. Uncovered patios, porches, decks less than 30” above finished grade may encroach up to 30% of the required setback depth.

7. HVAC units may encroach up to 2 feet into a required setback.

8. Landscaping may encroach in any required setback

9. Fences and decorative walls, subject to height and design restrictions may encroach in any required setback

10. Accessory Use EV Charging and associated equipment is subject to all setback and screening requirements within this Chapter, unless the siting of such equipment outside of setbacks is demonstrated to be infeasible, in which case the applicant shall document in their application why they are requesting the setback exemption and that a decision will be made based on that justification through the associated permit review process for the project as noted in the use table. Accompanying Principal Uses are still subject to applicable setbacks and screening requirements

C. Permanent features allowed in easements

1. Utility service lines to a structure.

2. Utility lines, wires, and associated utility structures within a designated utility easement.

D. *Permanent features prohibited in easements.* The following are not allowed in any easement:

1. Window wells.

2. Building egress located below grade.

3. Any structure, fence, sidewalk, pathway, or other feature that blocks stormwater flow in a drainage easement or obstructs use of a utility easement.

E. *Drainage easements.* Drainage easements must remain completely clear of obstructions to ensure proper stormwater flow.

30-4-108 Zoning Amendments

A. *Initiation of amendments to text or official zoning map*. The Board may from time to time, amend, supplement, change or repeal the regulations and provisions of this Section. Amendments to the text of this Code may be initiated by the Board, Town Staff or the Planning Commission. Amendments to the zoning district map may be initiated by the Board, Town Staff, Planning Commission, or by a real property owner in the area to be included within the proposed amendment.

B. *General rezoning of the Town*. Whenever the zoning district map is in any way to be changed or amended incidental to or as part of a general revision of the zoning code, whether such revision be made by repeal of the existing zoning code and enactment of a new zoning code or otherwise, the requirement of an accurate survey map or other sufficient legal description of, and the notice to and listing of names and addresses of owners of real property in the area of the proposed change, shall be waived. However, the proposed zoning map shall be available for public inspection in the Town Hall during regular business hours for a minimum of 15 days prior to the public hearing on such amendments.

C. *Zoning amendment application process.*

1. *Procedures.* See the Land Use Processes and Procedures Table and the Application Processes Section.

2. Notice shall be given in accordance with the public hearing and general notice provisions found in this Chapter.

3. *Zoning amendment application submittal.* The applicant shall submit the complete zoning amendment application package to the Town and shall request that the application be reviewed by the Planning Commission and Board. In the case of text amendments, no zoning amendment map is required. Application requirements shall include the following:

a. Application form, fee and memorandum of understanding.

b. A legal description for all property to be considered for rezoning to be provided in a form acceptable to the Town inclusive of a word processing format

c. Current proof of ownership in the form of a title commitment issued within 30 days of submission of the application for zoning map amendments. The copy shall include a single document inclusive of all exemptions and referenced recorded documents.

d. An amended map illustrating the area included in the proposed change (24 x 36 inches in size) containing the following information:

i. North arrow, scale (one inch equals 100 feet or one inch equals 200 feet), and date of preparation.

ii. The subdivision or block and lot name of the area to be zoned (if applicable) at the top of each sheet.

iii. Legal description of area to be zoned (entire area and individual zoning districts). In un-subdivided property, zone boundaries shall be determined by a metes and bounds description or by lot and blocks if applicable.

iv. Location and boundaries, including dimensions, of the property(s) proposed for rezoning. Note: zone boundaries are to be the center lines of physical streets, roads, highways, alleys, railroad rights-of-way, and channelized waterways, or such lines extended.

v. The acreage or square footage contained within the property proposed for rezoning.

vi. All existing land uses in the proposed rezoning area.

vii. Zoning and existing land uses on all lands adjacent to the proposed rezoning.

viii. The location and dimensions for all existing easements and public rights-of-way including streets, fee properties, and centerlines of water-courses within and adjacent to the rezoning.

ix. The names of all adjoining subdivisions with lines of abutting lots, and departing property lines of adjoining properties not subdivided.

x. Certificate blocks for Surveyor, Planning Commission, Board, and Larimer or Weld County Clerk and Recorder.

xi. Provide a digital copy of the approved property boundary in a format acceptable to the Town.

e. Narrative materials. A written statement describing the proposal and addressing the following points:

i. How the proposal meets the Intent Statements found in the Subdivision and Land Use Section of this Code as well as how the proposal meets the Criteria for Approval of a Zoning Amendment request.

Ii. Rationale for the proposed rezoning;

ii. Present and future impacts on the existing adjacent zone districts, uses, and physical character of the surrounding area;

iii. Impact of the proposed zone on area accesses and traffic patterns;

iv. Availability of utilities for any potential development;

v. Present and future impacts on public facilities and services, including, but not limited to, fire, police, water, sanitation, roadways, parks, schools, and transit;

vi. The relationship between the proposal and the intent of the Town Comprehensive Plan and Future Land Use Map;

vii. Public benefits arising from the proposal;

viii. Narrative materials shall respond to the intent section found in the Subdivision and Land Use Section of this Chapter and the Criteria for Approval Section found below.

ix. Additional narrative materials for text changes, provide a written description of the proposed change including the citation of the text to be changed citing specific difficulties with the existing text and similar provisions in zoning codes of other jurisdictions that support the rationale of the proposed change.

f. A list of surrounding property ownership in a format acceptable to the Town including the names and addresses of the surrounding property owners, mineral interest owners of record, mineral and oil and gas lessees for the property and appropriate ditch companies. The applicant shall certify that the report is complete and accurate.

4. *Post approval actions.*

a. Upon approval of an amendment to the official zoning map by the Board, the Town shall cause an appropriate revision of the official zoning map to be prepared. In the event the zoning amendment was initiated by an interested party, the petitioner shall pay the Town's cost for the preparation of the revision to the official zoning map.

b. Upon approval of an ordinance amending, changing or repealing part of the text of this Section, the Town shall certify a copy of the ordinance and place it in the official records of the Town and make appropriate supplements to this Section.

c. The applicant initiating the official zoning map amendment shall have one month after approval of the amendment by the Board to submit to the Town a copy of the approved and fully-executed zoning amendment map in a format acceptable to the Town for recording, along with the recording fees and all other costs billed by the Town relative to the zoning amendment.

The zoning amendment map shall be prepared by a licensed surveyor or engineer. Inaccurate, incomplete or poorly drawn plans shall be rejected. In addition, the petitioner shall provide the final document in a format acceptable to the Town.

e. Within 30 days of receipt of an applicant-initiated zoning amendment map, the Town shall review the document(s) for compliance with the Board approval, obtain the Town Officials' signatures and submit the approved zoning amendment map and the ordinance amending the official zoning map to the Larimer or Weld County Clerk and Recorder's Office for recordation.

D. *Criteria for amendments to the official zoning map*. For the purpose of establishing and maintaining sound, stable and desirable development within the Town, the Zoning Map shall not be amended except:

1. In the establishment of zoning to be consistent with the vision of the Future Land Use Map found in the most recently adopted Comprehensive Plan; and

2. The intent section found in the Subdivision and Land Use Section of this Chapter has been met as applicable to the particular zoning request; and at least one of the following:

a. To correct a manifest error in an ordinance establishing the zoning for a specific property;

b.To rezone an area or extend the boundary of an existing district because of changed or changing conditions in a particular area or in the Town generally; or

c. The land to be rezoned was zoned in error and as presently zoned is inconsistent with the policies and goals of the Town Comprehensive Plan; or

d. The proposed rezoning is necessary to provide land for a community-related use that was not anticipated at the time of the adoption of the Town Comprehensive Plan, and the rezoning will be consistent with the policies and goals of the Comprehensive Plan; or

e. The area requested for rezoning has changed or is changing to such a degree that it is in the public interest to encourage development or redevelopment of the area; or

f. This declaration of criteria for zoning map amendments shall not control an amendment that occurs incidentally to a general revision of the zoning map; and

E. *Criteria for text amendments to the zoning code*. For the purpose of establishing and maintaining sound, stable and desirable development within the Town, the text of this Section shall not be amended except:

1. To correct a manifest error in the text of this Section; or

2. To provide for changes in administrative practices as may be necessary to accommodate changing needs of the community and the Town Staff; or

3. To accommodate innovations in land use and development practices that were not anticipated at the adoption of this Section; or

4. To further the implementation of the goals and objectives of the Town Comprehensive Plan.

F. *Map — Amendment upon zoning establishment or modification*. Upon enactment of any ordinance annexing and establishing zoning or modifying existing zoning for any property, and after the effective date thereof, the Town shall amend the prior existing official maps to include the annexed area with the proper zoning classification or show the amended classification, as the case may be. Such updated Zoning Map shall contain, in table form, the date and number of the ordinance amending it, the date the Map was amended to reflect each amendment and the initials of the person who checked and approved the change to the map.

G. *PUD Text Amendment to use current Design Standards*. It is anticipated that subdivisions previously approved with PUD zoning will seek amendments to those approved PUD documents in order to allow the subdivision to follow Design Standards as identified in this Chapter. Text amendments to previously approved Final Development Plans that seek to modify Design Standards in order to conform to the Design Standards of this Code will be processed as an Administrative act of the Town. Any such PUD amendments will be recorded at the respective County Clerk and Recorder.

SECTION 5 SUBDIVISION AND LAND USE REGULATIONS

30-5-101 Intent

This Section is designed and enacted for the purposes of promoting the health, safety, convenience, order, prosperity and welfare of the present and future inhabitants of the Town. The regulations contained in this Section shall be known and cited as the Berthoud Subdivision and Development Regulations and referred to in this Section 5 as the "Regulations". The term development when used in these Regulations means new development and redevelopment. Each new development application and each redevelopment application shall include a narrative describing how the proposal will:

A. Complement the Town's historic development patterns and fit into the context of the existing and planned development on surrounding properties.

1. Street, sidewalk and trail alignment with adjoining developments and properties to ensure safe, efficient and pleasant walking, biking and driving experiences.
2. Decrease dependency on vehicles.
3. Existing and planned parks and open spaces in the development as well as in Town shall be connected by sidewalks and trails.
4. The Parks, Trails and Open Space Master Plans were utilized in the development of the project.
5. Compact, well-defined, sustainable neighborhoods to enhance the Town's character, complements the existing neighborhood and surrounding area.

B. Adhere to the vision established in the Comprehensive Plan, Land Development Code, Overlay Districts and Master Plans covering the property including:

a. The Land Use Code and underlying zone district.
b. The Land Use Code development and design standards.
c. Architectural Guidelines.
d. Landscape Design Guidelines.
e. Engineering Standards and Specifications.
f. Flood hazard mitigation.
g. Geologic hazard mitigation.
h. Other plans, specifications and guidelines that may impact the property.

C. Ensure there is sufficient provision for public utilities, services and facilities. The development shall be designed with consideration of the future needs as well as adequately managing the impact of the proposed development on the surrounding area and Town in general. Hazardous conditions on- and off-site shall not be created by the proposal.

a. Water
b. Sanitary Sewer
c. Stormwater
d. Electric and Natural Gas
e. Schools

f. Fire Protection and Emergency Response

g. Public Transit

h. Traffic circulation

i. Pedestrian movement

j. Irrigation practices

D. Mitigate negative impacts of the development on the surrounding property:

a. Light

b. Air quality

c. The Oil and Gas regulation section of this Chapter

d. Sensitive natural, historic and environmental areas and properties

E. Address a need or desirability within Berthoud and the development proposal will help achieve a balance of land use, create a specific sense of place through place-making in each distinct neighborhood, provide a variety of housing types, meet architectural diversity standards, and integrate meaningful neighborhood identity features into the development according to Town goals.

F. Meet all applicable local, state and federal permits have been or will be obtained.

G. Address such other matters as the Town may deem necessary in order to protect the best interest of the public.

30-5-102 General procedures

A. The procedures of this Section shall apply to any and all proposals for the subdivision and the development of land within the municipal boundaries of the Town, unless expressly and specifically exempted or provided otherwise in this Code. No subdivision or development shall be undertaken without prior approval or authorization pursuant to the terms of this Code. All subdivision and development shall comply with the applicable terms, conditions, requirements, standards and procedures established in this Section and the Municipal Code. The submittal of an application for approval pursuant to the provisions of these Regulations constitutes consent to, and agreement to comply with all of its applicable provisions.

B. This Section establishes procedural and substantive rules for reviewing applications for necessary approvals to develop land and construct buildings and structures. Development applications will be reviewed for how they conform to the vision of the Town Comprehensive Plan, Master Plans affecting the property, and applicable guidelines and policies, and how they comply with the Zoning Code, overlay districts applicable to the property, Engineering standards and specifications, and applicable regulations as amended. The submittal of subdivision application for consideration pursuant to the provisions of these Subdivision Regulations constitutes an agreement and the implied consent of the owner or applicant to comply with all of its applicable provisions.

C. The application requirements for each development and subdivision type can be found in the Application Materials Tables and the following descriptions in this Section. Where site specific circumstances warrant a deviation from one or more specific application requirement, the Community Development Director may grant a waiver of such requirement(s).

D. The applicants are responsible for being fully familiar with all applicable provisions of these regulations. At the time of submittal, the applicant shall submit application materials in a form acceptable by the Town. The application review process for each development and subdivision type can be found in the Land Use Processes and Procedures Table in this Section.

E. Should the applicant not provide a material response to staff comments within six months of the date of the most recent comments, the application shall be automatically closed and the applicant shall be required to reapply. Any unused development review fee funds shall be reimbursed within ninety (90) days of the application closure.

F. Should the application be approved, except where a vested right has been established in accordance with the Berthoud Development Code, and activity toward commencement of the project does not proceed forward within twelve (12) months of the date of the approving Resolution, approving Ordinance, or the Notice of Decision found in the Staff Report for an Administrative Approval, the application shall be automatically voided.

G. The applicant shall provide the Town with finalized documents within thirty (30) days of the final public hearing or the date found on the Notice of Decision found in the Staff Report for an Administrative Approval. Final documents shall be inclusive of plans, plats, mapping products, construction documents, easements, agreements and the Development Agreement.

30-5-103 Application Processes

The Town has many different application processes for land development and the subdivision of land. Applications for land development and applications for subdivision are also referred to in these Regulations as land use applications. This Section of the Development Code provides a reference to what the common application process steps are and the Subdivision and Land Use Processes and Procedures Table is a guide to the required application processes. The description of each process or procedure is described below.

A. Pre-application meeting: A pre-application meeting is required. The intent is to provide applicants with insight which may impact their applications, establish the process for application submittal, review application requirements and expectations, and to determine if the proposed use is consistent with the intent of the Land Use Code. The applicant shall provide an overview of their project and how the proposal meets the Town guidelines, standards, specifications and overlay district requirements. Staff may waive this requirement if the following applies:
    1. The required pre-application meeting for either a Preliminary Plat or a Final Plat may be waived if the preceding application is in process and close to completion, or received no material comments; and
    2. The required pre-application meeting for a Preliminary Plat is within four months of the approval of a Neighborhood Master Plan and the Neighborhood Master Plan received no material comments; or
    3. The required pre-application meeting for a Final Plat is within four months following the approval of a Preliminary Plat and the Preliminary Plat received no material comments.

B. Administrative Review: Several land use applications may be reviewed through an Administrative Review process. Land use applications that may have an Administrative Review option are listed in the Subdivision and Land Use Processes and Procedures Table.

C. Application Submittal: The applicant shall submit the application materials required. Refer to the required application materials be submitted as part of the application. The materials shall be submitted in a format and in the quantity required by the Town.

D. Certification of Completeness: Within a reasonable period of time and upon receipt of a land use application, staff shall review the submitted materials in conformance with the pre-application meeting specifications, the Code requirements, requirements in Master Plans and applicable overlay districts, and to ensure materials are complete. Staff shall either certify the application is complete and in compliance with all submittal requirements or reject the submittal as incomplete and notify the applicant of any deficiencies. The Applicant shall then correct any deficiencies in the application package, if necessary, and resubmit the application to Town Staff who will review the submittal for completeness.

E. Notice to Surrounding/Affected Property Owners: Staff shall provide notice of a pending application and/or public hearing within the period of time established in the Hearing and Notification Section of this Chapter.

The applicant shall provide a mailing list of all surrounding and affected property owners to the Town along with the source of information used to generate the mailing list. Staff shall determine the format of the mailing list to be submitted. The mailing list shall be updated and provided to Staff within the time frame determined by Staff in accordance with the Hearing and Notification Section of this Chapter.

F. Public Review. The public may view the application and provide comments which shall be reviewed by Staff, provided to the Applicant, and provided in packet materials for the public hearing process. When written comments are received prior to the Public Hearing, the applicant shall address public comments in a report to be included with the record prior to the Public Hearing.

G. Notice of the mineral estate is the responsibility of the applicant. The applicant shall provide notice according to C.R.S. §§ 24-65.5-101, et seq. The Town shall be provided with the list of the mineral estate owners, source of the generated list (attorney or certified landman), and a copy of the notice provided prior to the hearing and included with hearing materials.

H. Referral Period: Within an appropriate timeframe following Certification of Completeness, Staff will send information about the application to parties of interest such as an established referral agency. Referral agencies shall have a set period of time to make comments. Comments shall be reviewed by Staff, provided to the applicant, and provided in packet materials for the public hearing process. When comments are received prior to the Public Hearing, the applicant shall address public comments in a report to be included with the record prior to the Public Hearing.

1. The applicant shall address staff and referral agency comments within six (6) months of the date of the Staff Report. Should six months' time pass without adequate response from the applicant, the application shall be determined to be withdrawn. Remaining development fees shall be refunded.
2. Technical Review Meeting. Staff may determine if a meeting with specific referral agencies or with the Town is required prior to proceeding forward with submittals or public hearings. In the event Staff determines that a meeting with specific referral agency or agencies is needed, such meeting is required to be held before Staff procees forward with development review. The applicant may request a Technical Review Meeting and staff shall accommodate this request. If requested by the applicant, the applicant shall coordinate the attendance of referral agencies that are not part of the Town organization.
3. Criteria for Approval: Criteria for Approval is found in the Code section relative to each application process. Each new development application and each redevelopment application shall include a narrative describing how the proposal will meet the Intent section of these Regulations as well as the Criterial for Approval for specific application types.

I. Public Hearing Publication: The Town shall publish notice in a newspaper of general circulation of the upcoming public hearing(s) according to the Hearing and Notification Section of this Chapter.

J. Sign Posting: After providing the Town with a sign deposit, the Applicant shall post a sign along all public road frontages. Timing for the sign posting can be found in the Hearing and Notification Section of this Chapter. The Applicant shall return the sign to the Town following the last Public Hearing concerning the proposed application. If the sign is damaged, the deposit shall not be returned to the Applicant.

K. Planning Commission Hearing: If required, the Planning Commission shall hold a Public Hearing to review the land use application. The Planning Commission shall make a recommendation to the Board of Trustees to approve, conditionally approve or deny the application. The Planning Commission is the final Public Hearing on final plats. Notwithstanding that, the applicant may request the Board of Trustees notice and hold a public hearing and such public hearing on the final plat is necessary for purposes of creating a vested right pursuant to the Berthoud Development Code.

L. Town Board of Trustees Public Hearing: If required for the purpose of establishing a vested right, the Board of Trustees shall, after receiving the report and recommendation from the Planning Commission, hold a public hearing, after proper notice is given and act upon the proposed land use application. Following the Public Hearing, the Board shall consider the comments and evidence presented at the hearing, evaluate the application in accordance with the Criteria for Approval found in this Chapter and approve, approve with conditions or deny the application, in whole or in part.

M. Ordinance or Resolution: Land use applications receiving a Public Hearing shall be approved by either a Resolution or Ordinance as outlined in the Subdivision Land Use Processes and Procedures Table.

N. Conditions of Approval and Recording: Prior to recording the documents for a land use application eligible for an administrative approval or those applications requiring a Public Hearing, the Applicant shall address all Conditions of Approval contained in the Staff Report and the Ordinance or Resolution, as required. Once staff is satisfied that the Conditions of Approval have been met, appropriate documents shall be recorded with the office of either the Larimer or Weld County Clerk and Recorder.

O. Upon approval of any subdivision or land use application, the applicant has thirty days to finalize the materials and return documents to the Town for recording. If materials are not provided within this timeframe, the applicant may be considered void.

Subdivision and Land Use Processes and Procedures Table

Application Process	Pre-application meeting	Application Submittal	Certification of Completeness	Notice, Publication and Sign Posting	Mineral Notice	Referral Period	Administrative Option	Planning Commission	Town Board of Trustees	Criteria for Approval	Ordinance/ Resolution	Conditions of Approval Addressed & Development Agreement	Record documents
Application Type													
Use by Special Review for Allowed Marijuana Business	Yes	Yes	Yes	Refer to the Hearing and Notification requirements Section of this Chapter of the Municipal Code	Yes	Yes	No	Yes	Yes	Yes	Resolution	Yes	Yes
Wireless Communication Facilities, use by right	Yes	Yes	Yes		No	Yes	Yes	No	No	Yes	No	Yes	Yes
Wireless Communication Facilities, Use by Special Review	Yes	Yes	Yes		No	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Wireless Communication Facilities, Eligible Facilities	Yes	Yes	Yes		No	Yes	Yes	No	No	Yes	No	Yes	Yes
Site Plan	Yes	Yes	Yes		No	Yes	Yes	No	No	Yes	Administrative	Yes	Yes
Variance	Yes	Yes	Yes		No	Yes	No	Acting as BOA	Optional	Yes	Resolution	Yes	Record Resolution w/ Minutes as an attachment
Waiver	Yes	Yes	Yes		No	Yes	Optional	Yes	No	Yes	Resolution	Yes	Record Resolution w/ Minutes as an attachment
Annexation	Yes	Yes	Yes		Yes	Yes	No	No	Yes	Yes, also see C.R.S.	Ordinance	Yes	Yes
Zoning Amendment	Yes	Yes	Yes		No	Yes	No	Yes	Yes	Yes	Ordinance	Yes	Yes
Text Amendment to the Development Code	No	Yes	Yes		No	Optional	No	Yes	Yes	Yes	Ordinance	No	No
Neighborhood Master Plan	Yes	Yes	Yes		Yes	Yes	No, Minor Amendment Optional	Yes	Yes	Yes	Resolution	Yes	Yes
Preliminary Plat	Yes	Yes	Yes		Yes	Yes	No	Yes	Yes	Yes	Resolution	Yes	Yes
Final Plat See additional steps for vesting	Yes	Yes	Yes		No	Yes	Yes	Optional	No	Yes	Optional	Yes	Yes
Minor Sub Plat	Yes	Yes	Yes		Yes	Yes	No	Yes	No	Yes	Resolution	Yes	Yes
Administrative Adjustment to recorded plats	Yes	Yes	Yes		No	Optional	Yes	No	No	Yes	No	Yes	Yes
Replat	Yes	Yes	Yes		No	Yes	No	Yes	Yes	Yes	Resolution	Yes	Yes
Home Occupation	No	Yes	Yes		No	Optional	Yes	No	No	No	No	Yes	No
Short-term Rental	No	Yes	Yes	Refer to the Short Term Rental Section of this Chapter	No	No	Yes	No	No	Yes	No	No	No

NOTE: Processes with an “Optional” notation are for staff to determine the outcome of the step.

30-5-104 Subdivision Application materials

A. Application submittal requirements: The following table outlines the submittal requirements and standards for each subdivision application type. A description of the application item follows the table below. At the discretion of the Community Development Director, and depending on the particular project and potential impacts to the community, the Town reserves the right to waive certain requirements and request additional materials based upon the details of the specific project. Waiver or the request of additional materials may be made at the Pre-Application meeting or during the development review process.

Subdivision Application Materials Table

Application item	Preliminary Plat	Final Plat	Minor Subdivision	Neighborhood Master Plan	Administrative Adjustment	Replat	Zoning
Application Forms and Fees	X	X	X	X	X	X	X
Property Ownership	X	X	X	X	X	X	X
Neighboring Property owner list	X	X	X	X	X	X	X
Plat/Mapping Products	X	X	X	X	X	X	X
Grading plan and drainage report	Preliminary	Final	Final	Concept	X		
Construction drawings	80%	100%	100%				
Landscape, irrigation, and open space plans	Preliminary	Final	Final	Concept			
Architectural Diversity Plan	Preliminary	Final	Final	Concept			
Narrative materials	X	X	X	X	X	X	X
Supporting Documents	Preliminary	Final	Final	Preliminary			X
Agreements	Preliminary	Final	Final	Concept			X

B. Descriptions of application materials for all Subdivision processes. The Town reserves the right to waive certain requirements and request additional materials based upon the details of the specific project. Waiver or the request of additional materials may be made at the Pre-Application meeting or during the development review process. All application materials shall be submitted in a method and format acceptable to the Town.

1. Application Forms and Fees
    a. Application Form provided by the Town
    b. Memorandum of Understanding for Development Review fees on a form provided by the Town
    c. Fees. The required application fees and any development review deposit fees will be provided to the applicant at the pre-application meeting. Fees are due upon submittal of the application.
2. Evidence of property ownership
    a. Title Commitment: Dated no more than 30 days from the date of application submittal.

3. Neighboring Property owner list
    a. A list of property owners and the source of the list in a format acceptable to the Town.
    b. Refer to the public hearing and general notice provisions section of this Chapter.
4. General standards for all mapping and platting products. All Plat/Mapping products shall contain the following elements and follow the standards listed below:
    a. Preparation
        a. Prepared by a Professional Land Surveyor licensed to do business in the state and shall be a neat, clear, legible and reproducible document. The plat/map submitted for recording shall contain the original signatures and seals in permanent ink. If the County recording the document will accept electronic signatures, these may be provided.
        b. All work shall comply with C.R.S. 38-50-101 and 38-51-101, et seq.
        c. All work shall comply with the requirements of the Bylaws and Rules of Procedure of the State Board of Registration for Professional Engineers and Professional Land Surveyors and the Rules of Professional Conduct of the State Board of Registration for Professional Engineers and Professional Land Surveyors – Board Policy Statement.
    b. Form for maps, plats, plans, engineering documents and report
        a. The document to be recorded should the project be approved shall be delineated in permanent black ink on a dimensionally stable polyester sheet such as Mylar, or other material as approved by the Town.
        b. Sheet specifications
            a. Each sheet shall be twenty-four (24) inches in height and thirty-six (36) inched in width.
            b. Drawn at a scale of one inch equals one hundred feet (1" = 100') or one inch equals two hundred feet (1" = 200').
            c. Project title shall be at the top of each sheet including:
                a. Project name
                b. Section, Township, Range, County of either Larimer or Weld, State of Colorado
            d. North arrow
            e. A statement of known engineering scale and a bar-type scale
            f. A statement defining lineal units
            g. Date of preparation
            h. Revision block which is updated with each submittal
            i. A legend designating all abbreviations, line types and symbols
            j. Names, telephone numbers, and addresses of the applicant, developer, engineer, surveyor and property owner. Application materials shall be signed by each prior to submittal
            k. A scale drawing of all boundaries of the entire subject property on one sheet and written property description of the exterior boundary of the subject property.
            l. Include acreage to the nearest one-hundredth (0.01) of an acre.
            m. All distances shall be shown to the nearest one hundredth (0.01) of a foot and bearings to the nearest second. All distances shall be given in ground, not grid, distance.
            n. All field-measured dimensions necessary to establish the boundaries on the ground and all dimensions for newly created lots necessary to establish the boundaries on the ground.
            o. Bearing, distance, and curve data for all lot boundaries. All curve data shall include arc length, radius, central angle, chord bearding and chord distance. Boundaries shall be clearly indicated on the plat. Recorded bearings and distances that vary with measured bearings and distances shall be shown in parentheses along with measured bearings and distances.
            p. The survey shown shall not have an error greater than one part in 10,000.

q. A basis of bearing statement.
r. The exterior boundary shall be tied to two (2) or more monumented public land survey monuments.
s. Location and a description of all monuments, both found and set, that mark the boundaries of the property.
t. Any conflicting boundary evidence (fences, conflicting monuments, physical features, etc.).
u. All recorded, proposed and apparent easements and rights-of-way, including the purpose, width, and location of all existing and proposed easements located on the property and adjacent to the property. A plat note may be necessary to provide complete information of the purpose of the easement. Proposed easements shall have bearings, distances, and curve data sufficient to allow them to be established on the ground. These shall be labeled and dimensioned.
v. All existing and proposed trails and sidewalks on and adjacent to the property (labeled and dimensioned).
w. The location of any oil and gas facilities within two thousand feet (2,000) of the project boundary, described by latitude and longitude.
x. Hydrologic features, including, but not limited to, irrigation canals and ditches on the subject property.
y. The limits of any Special Flood Hazard Area on the subject property, and the source of the information provided.
z. Limits of any areas of Geologic Hazard on the subject property, and the source of the information provided.
aa. Parcels excepted from inclusion noted as "not included in this subdivision" and the boundary completely indicated by bearings and distances.
bb. The names of property owners with the parcel boundary, parcel number and zoning classification of adjoining properties.
cc. Applicable plat certificates and notes provided by the Town.
dd. Topography at 2’ contour intervals. Source may be from the United States Geological Survey (USGS).
ee. Metes and bounds legal description of the subject property with closure statement and total acreage. The exterior boundary of the project and boundaries of all lots, tracts and outlots shall have a closure accuracy of one-hundredth (0.01) foot.

c. A land use table that details the following:
a. Total project acreage
b. Total number and total acreage of each lot, outlot, tract and block
c. Total acreage of each proposed zone district/character district
d. Total acreage of road rights-of-way
e. Total number of dwelling units for residential lots and dwelling density per acre and character district
f. Acreage of each different land use or zoning classification proposed
g. For commercial/industrial developments, include the floor area ratio and identify compliance with the Commercial and Industrial Standards section of this Code.
h. For residential developments include the housing diversity counts and percentages and identify compliance with the Residential Design Standards section of this Code.
i. Lot, track, outlot and block numbers shall be:
a. Numbered in ascending numerical and consecutive order beginning with “Lot 1,” for example

b. Include square footage or acreage to two decimal places of each lot or tract

d. Vicinity map
    a. Minimum scale of one inch equals two thousand feet (1" = 2,000')
    b. Illustrate adjoining properties for a distance of one-quarter (1/4) mile
    c. Provide a north arrow
    d. Delineate the project boundary
    e. Identify adjacent roads, municipal boundaries, ditches and irrigation systems, railroads, etc. which shall be labeled
    f. Location of oil and gas facilities on the property and within one-half mile of the property boundary. The distances shall be dimensioned. If there are no facilities within this distance, note the source of findings.
    g. The section and dashed quarter section lines shall be included and labeled
e. Development Overview Sheet. One sheet shall contain the following:
    a. Street layout
    b. Lot and Block arrangement
    c. Floodplain/Floodway
    d. Trails and sidewalks in relationship to neighboring properties and master plans impacting the project
    e. Project phasing plan, if proposed.
f. Index sheet shall be one sheet and contain the following:
    a. Street names
    b. Block and Lot arrangement and numbers
    c. Outlot and Tract numbers and arrangement
    d. Overlapping match lines, if necessary
g. Existing site conditions map.
    a. Show and label the physical characteristics and natural site constraints of the property and existing on-site structures, irrigation equipment, ditches, or laterals, utility lines, natural gas pipelines, overhead lines, railroads, easements and rights-of-way listed in title work, etc.

5. Construction Drawings
    a. Completeness expectations. Unless specified otherwise, all Construction Drawings and engineering documents shall be prepared according to the following expectations:
        a. 80% Plans will contain most civil engineering design elements such as site grading, drainage, utilities and roadways.
        b. 100% plans are fully detailed with all civil engineering components finalized including precise calculations, material specifications and complete annotations for construction. All documents are to be fully-coordinated across disciplines inclusive of acreage cross-referencing, finalized alignment, profiles and details for elements like storm drains, roadways or retaining walls, for example.
    b. Site improvements plan.
        a. Show and label the anticipated amenities including but not limited to mailbox pedestals, development identification signs, bus stop locations and shelters, parks, trails, sidewalks, common open space, conservation areas, art, fixtures, neighborhood identity features, etc.
        b. Street network and connectivity to the existing road network including all proposed access points; alley and road classification, plans and profiles.
        c. Include a table indicating the name of the entity who will maintain and own the amenities after the site has been released of warranty.
        d. Include an installation schedule.
        e. Provide a draft deed for public lands for dedication of public sites for open space or other civic purposes.

c. Utility plan. Refer to the Town of Berthoud Engineering and Infrastructure Design Standards and Construction Specifications for the details required for application submittal.
d. Grading Plan and Drainage Report. Refer to the Town of Berthoud Engineering and Infrastructure Design Standards and Construction Specifications for the details required for application submittal.
e. Lighting Plan prepared in accordance with the Outdoor Lighting and Dark Skies Section of this Chapter.
f. Geotechnical Report.
g. Geologic study. If upon referral to the Colorado Geologic Survey (CGS), the CGS requires a geologic study, then this report must be prepared by a registered professional engineer or professional geologist and shall address the following:
    a. Site conditions
    b. Geologic conditions
    c. Engineering considerations and limitations
    d. Additional investigations necessary per the CGS

6. Landscape, Irrigation, Parks and Open Space and Parking plan prepared in accordance with the Town's Landscape Design Guidelines and the Design Section of this Chapter and shall include:
    a. Project name.
    b. Scale, north arrow and date of preparation.
    c. Existing and proposed streets and street names.
    d. Lot lines, easements and public rights-of-way as shown on the subdivision plat, including gross and net area of all parcels.
    e. Location of proposed building footprints and parking areas.
    f. Location of storage, loading and service areas.
    g. Existing and proposed two-foot contours (based on USGS datum).
    h. General grading concepts for improvements, typical cross-sections of streets and special treatment areas.
    i. Existing site features including ditches, trees, shrubs and groundcovers and any drainage ways, wetlands or wildlife habitat present on the site.
    j. All existing trees within the proposed site and adjacent to the site must be accurately identified on the plan. Existing trees must be labeled as to their size, species and if they are intended to remain, be removed or transplanted. All replacement mitigation trees will need to be shown separately on the plan. Tree protection standards for existing trees to remain shall be included on the plan.
    k. Natural features, wetlands, wildlife corridors, floodplains, streams, ditches and other waterways.
    l. Define areas to be considered open space and if public or private. Indicate how open space will be maintained including: erosion control, revegetation, and weed management during and after construction.
    m. The location of existing and proposed utilities and easements. Utility lines can be 'ghosted' in on the landscape plan to vary the line types for cleaner drawings.
    n. Acreage and percentages of parks, trails and open spaces.
    o. Landscaping around signage, structures and site amenities.
    p. The extent and location of proposed trees, treelawns, shrubs, groundcovers, perennials turf, fences, walls, and other site amenities, for example. Plant materials are to be drawn at two-thirds of its mature size.
    q. Landscape schedule [i.e. a table] including the represented plant symbol, Latin name, common name, planting size and number of individual plants. All plant materials are to meet the minimum size requirements as provided in this Code. Provide the percentage of each material to illustrate how the diversity standards are met.
    r. Location of fences, walks, etc.

s. Proposed treatment of all ground surfaces must be clearly indicated, including turf, paving, mulch, native grass, seeded grass, etc. Grass areas are to be specified as seed or sod, and a seed mix/rate specified.
t. Detail drawings at 1" = 20' to illustrate typical perimeter treatment, buffering, front yard and any special treatment areas on site.
u. Sight distance triangles must be shown at street intersections pursuant to this Code.
v. Project specific landscape notes and details to ensure the proper planting, establishment and survival of plant materials. Additional notes detailing the warranty for plant materials and continued maintenance shall be included.
w. Proposed grading of the project site, including drainage swales, detention basins, retaining walls and any off-site infrastructure improvements.
x. Notes for conservation and retention of top soil and landscape soil preparation.
y. Restoration, revegetation or enhancement of disturbed natural areas or open space feature.
z. Park structures, signage, play equipment, and other landscape or park amenities and appurtenances.
aa. Buffering plan
    a. Dimensioned buffer areas
    b. Acreage of buffer areas
    c. Proposed use of buffer areas
bb. Park and open space plan
    a. Park and open space distribution and location with acreages and percentages
    b. Neighborhood identity features
    c. Required buffer areas
    d. Connection to regional trails, and trails and sidewalks located on adjacent properties
cc. Pedestrian network
    a. Location of all trails and sidewalks, and connection to the regional trails system and sidewalks and trails on adjacent properties
    b. Plan for off-site sidewalk or trail improvements including ¼ mile pedestrian shed beyond the project boundary.
    c. Depiction of bike lanes or other multi-modal features.

dd. Provide a landscape maintenance plan inclusive of irrigation practices for different planting areas, weed control, replacement of diseased or dead materials, and mowing. Refer to the Landscape Guidelines. The landscape maintenance plan shall be submitted with the Final Plat.
ee. Irrigation Plan shall be prepared in accordance with the Town's Irrigation Plan Guidelines. The Irrigation Plan shall be submitted with the Final Plat.
ff. Neighborhood identity features shall be identified and precedent images or product specifications are to be provided.
gg. Parking plan in compliance with the parking section of the Design Standards found in this Chapter.
hh. Hydrozone analysis shall detail the proposed consumption of potable and non-potable water for both interior and exterior uses. Indicate the intended source of water for potable and non-potable water uses. A table shall be created and placed on the Landscape Plan illustrating acreage per consumption type outlined in the Water Rights Dedication section of this Chapter. A sample table is included below as an illustration of the data required:

Project Name										
Hydrozone for landscaping common spaces prepared by:										
Proposed source of water:										
	Project acreage	X	Water demand in acre feet/ acre	=	Total Acre-feet of water needed		Project acreage	X	Water demand in SFE/acre	=	Total number of SFE needed
Natural areas, open water, impervious surface			0						0		
Native seed area			0.8						2		
Lawn grass, playing fields, tree/shrub beds, etc.			3						7.5		
Non-turf vegetation			1.33						3.25		
Total quantity of acre-feet of water needed							Total quantity of SFE needed				

To complete the following table, refer to the Water Rights Dedication section of this Chapter and list the proposed lot sizes in the right hand column and then complete the table per the column titles.

Project Name			
Water Calculation for potable use prepared by:			
Proposed source of water:			
	If non-potable water is proposed for irrigation on individual lots, provide the quantity required in this column	If non-potable water is proposed for lot irrigation, provide the quantity of potable water required in this column	If potable water is proposed for both outdoor and indoor uses, provide the water required in this column
Lot size/ number of lots			
Lot size/ number of lots			
Lot size/ number of lots			
Lot size/ number of lots			
Total SFE required			

Raw water dedication. Prior to the issuance of a building permit, the applicant shall provide to the Town funds to purchase sufficient raw water or rights thereto for that permit. At the time of Final Plat, all water necessary for irrigation of parks, open space, golf courses, playing fields, and similar public areas shall be dedicated to the Town per this Code.

7. Architectural diversity plan/common architectural guidelines for non-residential projects inclusive of signage shall be provided.
    a. Graphics or illustrations of proposed exterior elevations.
    b. Provide complete building elevations, drawn to scale, with illustrations of all colors and identifying major materials to be used in the structure(s).
    c. Building floor plans, sectional drawings, perspective drawings, models, and/or computer visualizations when the impacts of a proposal warrant such information.
    d. Architectural standards for the development. Standards in addition to those found in the Town's Architectural Guidelines and Design Standards section of this Chapter shall be provided to illustrate a sense of place for individual developments.
    e. Development sign plan.

i. Provide a plan illustrating a unified sign plan for the development. Illustrate how the sign will be integrated into the overall site inclusive of landscaping, sight distance, etc.

8. Narrative materials.
    a. The applicant shall state how the requirements of the Intent Section will be met if not exceeded.
    b. General description of the plan to manage drainage and stormwater
    c. Statements regarding utility provision (potable and non-potable water, sanitary sewer, stormwater management, dry utilities). Describe utility capacity and the need to extend or upgrade lines. Describe the source of water and the quantity of water needed.
    d. Duplicate the landscape plan hydrazone analysis in narrative materials.
    e. Describe how the landscape and irrigation plans meet the requirements of this Chapter, the Landscape Design Guidelines, and any overlay district the property is located within.
    f. Describe key findings in the Traffic Impact Study inclusive of anticipated on- and off-site improvements and phasing for these improvements.
9. Supporting documents.
    a. Traffic Impact Study. This study must be prepared by a professional traffic engineer and identify the project impacts to the local and regional traffic system. The direct roadway impacts and proposed share in the cost of regional improvements and intersections must be identified for the project.
    b. Mineral, oil and gas documentation. Evidence that the surface owner has contacted all lessees of mineral, oil and gas rights associated with the site. Included in the evidence must be the name of the current contact person, their phone number, and mailing address for each of the mineral owners or lessees. Said evidence may be provided in a mineral interests report prepared by a certified landman, title company, or attorney. See C.R.S. . §§ 24-65.5-101, et seq.
    c. Colorado Historical Society (CHS) records search. At the discretion of the Town and in consultation with the Berthoud Historic Preservation Advisory Committee (HPAC), an applicant may be required to provide the Town with a CHS records listing historically or archaeologically significant findings on the property being subdivided at their expense. If a listing shows a significant finding, a site-specific historic survey per the requirements of the CHS is required. If, in coordination with the applicant, the Town Board decides to protect any historic resource, a protection plan must be developed in consultation with the HPAC.
    d. General ecological resource survey. Prepared by a qualified biologist, geologist, ecologist, or similar qualified professional, a survey identifying the potential/absence/habitat of a threatened or endangered species and wetlands or other ecologically sensitive area. Said survey shall make practical recommendations regarding treatment or mitigation of the findings.
    e. Deed for public lands. The applicant shall submit to the Town a warranty deed and title insurance for all lands dedicated on the Final Plat and to be accepted by the Town.
10. Agreements. The following agreement shall be secured and provided to the Town when requested.
    a. Development Agreement. Prior to recording the final subdivision approval document, the applicant shall enter into a Development Agreement with the Town for all public improvements including on-site and off-site improvements which may include and not be limited to water, sanitary sewer, non-potable water, stormwater, sidewalks, street trees, traffic improvements, for example. The Town Board of Trustees hereby delegates to the Town Administrator the authority to approve and sign all development agreements between the applicant and the Town. See the Development Agreement and the Construction of Public Improvements Sections of this Chapter.
    b. Floodplain use permit from the Town.
    c. Agreement with irrigation companies.
    d. Other agreements that may be necessary to allow the subdivision of land to occur.
1. Additional materials. At the Town's discretion and depending on the proposed subdivision and its potential impact to the community, the Town may request additional materials.

30-5-105 Subdivision types

The Town of Berthoud has many different application types of subdivisions, each of which will be described in this section. The required application materials will be listed in the Subdivision Application Materials Table and narrative found in this section.

A. For all subdivisions, the following applies:

1. Application Process. Refer to the Land Use Processes and Procedures Table and narrative section.

2. Public Notice. Refer to the Public Hearing and General Notice Provisions Table.

3. Application Materials. Refer to the Subdivision Application Materials Table and narrative section.

4. Criteria for Approval. Refer to the Intent section as well as additional Criteria for Approval in each individual application type found below. The Criteria for Approval is used to evaluate if the application can be approved.

B. Minor Subdivision.

1. The Minor Subdivision provides a streamlined land division process that allows the creation of no more than six total lots, from one parent tract or lot that meet the requirements of this Code.

2. To be eligible for the Minor Subdivision process, the following shall apply:

a.

a. The property has been previously platted within the Town; and

b. The proposed project includes no additional public right-of-way dedication necessary for access to the development.

3. If denied, the applicant may appeal the Planning Commission's decision to the Town Board of Trustees.

1. *Timeframe related to approval of Minor Subdivision.* A Minor Subdivision is in full force and effect for one year from date of recordation. Applicants may request a single, one-year extension from the Town prior to termination of Minor Subdivision approval.

C. Neighborhood Master Plan.

1. The Neighborhood Master Plan is a concept design of the development and shall be submitted with a Zoning, Rezoning or Preliminary Plat application that includes a residential component, and depicts what the applicant envisions for the overall development, including zoning, transportation, pedestrian network, parks, open space, subdivision identity standards and other amenities, as well as precedent images. The Neighborhood Master Plan shall convey how the applicant has integrated the Town's master plans, architectural guidelines, landscape design guidelines, residential diversity standards, and neighborhood identity features, for example into their development proposal. The Neighborhood Master Plan is the method to describe how a proposed development fits into the context of Berthoud as a whole and the immediate surrounding areas, A Neighborhood Master Plan is not required for a Minor Subdivision.

a.Previously approved concept plans. Concept plans approved before the amendment of this section of the ordinance shall not be entitled to any vested development rights.

b.Timeframe related to approval of Neighborhood Master Plan. A Neighborhood Master Plan is in full force and effect for one year from date of Town Board action. Applicants may request a single, one-year extension from the Town prior to termination of the Neighborhood Master Plan approvalNeighborhood Master Planand the Preliminary Plat approval.

c. Minor amendments. Minor amendments to the Neighborhood Master Plan may be approved administratively under the following conditions:

1. Does not change any land use, or location of any land use.

2. Does not change the number of lots or density by more than ten percent.

3. Does not contain significant changes in arterial or collector street alignment and/or access points, or other major public elements such as drainage improvements, utility lines or facilities.

4. Does not change any measurable standard (other than above), such as open space, or park area, by more than ten percent.

D. Preliminary Plat.

1. A Preliminary Plat is used to depict preliminary engineering studies, lot lines and construction documents. A Preliminary Plat illustrates how a subdivision meets the design and development requirements found in the Town Code inclusive of infrastructure, landscaping, traffic and lot lay-out.

2. Preliminary Plat Required: A Preliminary Plat is required for all subdivisions. No Final Plat will be processed or approved without prior Preliminary Plat approval.

3. Phasing. A Preliminary Plat shall designate the boundaries of phases for which separate Final Plats may be presented for approval. Each phase, either alone or in conjunction with previously approved and recorded phases, must meet all of the requirements of this Code.

4. The Preliminary Plat shall be in substantial compliance with the approved Neighborhood Master Plan. For the purposes of this Code, "substantial conformance" includes design adjustments made to meet any conditions of the Neighborhood Master Plan approval, and is determined as follows:

a. Does not change any land use.

b. Does not change the number of lots or residential density by more than 5%.

c. Does not contain changes which would render the preliminary plan in nonconformance with requirements of this Code.

d. Does not contain significant changes in street alignment and/or access points, or other public elements such as drainage improvements, utility lines or facilities.

e. Does not change any measurable standard (other than above) by more than 15 percent.

f. How the Applicant has addressed comments received from the public, during the Public Comment portion of the process.

g. Preliminary Plats determined by the Community Development Director to have changes that exceed the definition of "substantial conformance" as above shall not be processed until a new Neighborhood Master Plan has been approved.

5. Every approval of a Preliminary Plat by the Board of Trustees shall constitute the Board's delegation to the Mayor to sign the final plat accepting the dedications set forth therein.

6. In order to establish the three-year statutory vested right, the applicant must request a required public hearing on a site specific development plan before the Board of Trustees. The public hearing on the Preliminary Plat satisfies this requirement provided that the Final Plat is identical to the approved Preliminary Plat. This means that the Final Plat is identical to the Preliminary Plat as submitted for the Public Hearing and incoproates only those modifications and conditions expressly provided for in the Preliminary Plat approving resolution. Notwithstanding any contrary provision, a Preliminary Plat is not a site specific development plan and no vested right is established by the approval of a Preliminary Plat.

E. Final Plat.

1 A Final Plat is used to complete the final engineering studies, lot lines and construction documents. A Final Plat illustrates how a subdivision meets the design and development requirements found in the Town Code inclusive of infrastructure, landscaping, traffic and lot lay-out. The Final Plat must be in substantial conformance with the approved Preliminary Plat to receive an administrative review. For the purposes of this Code, "substantial conformance" includes design adjustments made to meet any conditions of the preliminary plan approval, and is determined as follows:

a. Does not change any land use.

b. Does not change the number of lots or residential density.

c. Does not contain changes which would render the Final Plat in nonconformance with requirements of this Code.

d. Does not contain significant changes in street alignment and/or access points, or other public elements such as parks, open space, public spaces, drainage improvements, utility lines or facilities.

e. Does not change any measurable standard (other than above) by more than 5 percent.

f. How the Applicant has addressed comments received from the public, during the Public Comment portion of the process.

g. How the Applicant has addressed conditions of approval, if any were imposed during the Preliminary Plat by the Planning Commission and/or the Town Board of Trustees.

h. Final Plats determined by the Community Development Director to have changes that exceed the definition of "substantial conformance" as above shall be processed through to the Planning Commission for a public hearing for the Final Plat. .

2. *Timeframe related to approval of Final Plat.* Unless a vested right is established in accordance with the Berthoud Development Code, a Final Plat is in full force and effect for one year from date of recordation. Final PlatApplicants may request a single, one-year extension from the Town prior to termination of Final Plat Subdivision approval.

3. *Vesting; Fnal Plat Identical to Preliminary Plat*. In the event the Final Plat is identical to the approved Preliminary Plat, no additional public hearing is needed for the purposes of establishing a vested right. In such cases the Final Plat may be administratively approved and a vested property right of three years shall be deemed established upon the administrarive approval of the Final Plat except that the period of time permitted by law for the exercise of rights or referendum and judicial review shall begin to run until the date of publication, in a newspaper of the Town granting the approval.

4. *Vesting*; *Final Plat Not Identical to Preliminary Plat*. In the event the Final Plat is not identical to the approved Preliminary Plat, and the applicant desires that the Final Plat establish a vested right, the applicant may request the Board of Trustees notice and hold a public hearing on the final plat and where applicable in cases where the applicant requrest rights exceeing three years, the proposed development agreement, for purposes of establishing a vested right pursuant to the Berthoud Development Code.

    i. The following application materials are required:

        i. Application Forms and Fees
            1. Application Form provided by the Town
            2. Memorandum of Understanding for Development Review fees on a form provided by the Town
            3. Fees. The required application fees and any development review deposit fees will be provided to the applicant at the pre-application meeting. Fees are due upon submittal of the application.
        ii. Evidence of property ownership
            1. Title Commitment: Dated no more than 30 days from the date of application submittal.
        iii. Neighboring Property owner list
            1. A list of property owners and the source of the list in a format acceptable to the Town.
            2. Refer to the public hearing and general notice provisions section of this Chapter.
        iv. Letter of request for vesting

v. Approved Final Plat

vi. Approved Development Agreement

1. Where the applicant requrests rights be vested for a period exceeding three years, a Development Agreement providing for such rights to be vested for a period exceeding three years may only be approved by the Town Board in its legislative discretion pursuant to the factors provided in C.R.S. Section 24-68-104.

ii. The following process shall be followed for a vesting request of a Final Plat:

i. The standards established in the Public Hearing and General Notice Provisions Table shall be followed.

ii. After proper notice, a public hearing shall be held before the Town Trustees. The Town Board of Trustees may approve, approve with conditions, or deny the final plat.

5. Early grading. After submittal of the Final Plat, an applicant may request approval to proceed with preliminary grading of the project area under the following circumstances. The Town reserves the right to approve or deny the request. This is an option to be approved by the Town.

a. The construction documents must signed and stamped by a professional engineer licensed to practice in the State of Colorado. The plans shall include a construction plan set for grading and drainage and approved by the Town Engineer; and

b. The Town Engineering issues a memo authorizing specific grading work; and

c. The applicant accepts the risk of early grading and stormwater management / water quality feature installation; and

d. The applicant understands there is no presumption of any Final Plat approval expressed or implied by any authorization of early grading; and

e. The applicant shall enter into an Agreement with the Town including posting surety in a form acceptable to the Town along with a cost estimate of the work to be performed, the cost of restabilizing the disturbed property, and other work should the applicant not proceed with the development post disturbance; and

f. The applicant shall provide the Town with a Stormwater Management Plan approved by the Town Engineer and an approved Construction Stormwater Discharge Permit issued by the State of Colorado, if needed; and

g. The applicant shall hold a Pre-Construction meeting with Town representatives two weeks prior to work proceeding on site.

F. Replat

1. The Replat process provides for modifications to recorded plats. This process shall not be used to convey or create additional lots or tracts than originally existed.

2. This process shall be required for the following modifications to a recorded plat:

a. Any change to a condition or note on a plat;

b. The vacation of any right-of-way that results in a new lot configuration;

c. The vacation of rights-of-way and easements of record over which the Town Board of Trustees have jurisdiction that are no longer needed after complete review by all appropriate agencies; or

d. The relocation or dedication of new right-of-way within a previously recorded subdivision.

30-5-106 Administrative adjustment to recorded plats

A. *Administrative Adjustment purpose.* The purpose of the administrative adjustment is to allow adjustments to recorded Final Plats where there is anticipated to be no significant impact to the Town. The Town Administrator may determine that the Planning Commission should make the decision as to the adjustment of internal or external boundary lines if the adjustment would have a significant impact on the Town or the neighborhood.

B. *Administrative Adjustment allowed.* The Town Administrator is authorized to approve, execute and record plats where the following occur:

a. Consolidation of any number of lots into a single lot,

b. Modification or reconfiguration of the common property line between contiguous legal lots to reflect the generally recognized use of the property, or where they conform to the historic usage of the property.

c. Minor corrections to recorded plats that do not involve lot consolidations or changing lot boundaries.

C. *Administrative Adjustment prohibited.* The Town Administrator is not authorized to approve, execute and record plats where the following occurs:

a. Result in the creation of additional lots;

b. Affect access, drainage or utility easements or rights-of-way serving the property or other properties in the area;

c. Create nonconforming resultant lots that do not meet the required minimum lot size standard of the applicable zone district;

d. Create a nonfonforming setback for any existing building;

e. A change to a condition or note on a plat; or

f. Where there is a change in land use or in the intensity of residential land use including for example:

i. From single-family to multi-family,

ii. From residential to commercial,

iii. From commercial to industrial, or

iv. Any other like change in land use. b

D. . *Application materials*. In addition to the application materials listed in the Subdivision Application Materials Table, all owners of legal and equitable title shall execute before a Notary Public a petition stating they are the owners of equitable title to the property subject to the proposed administrative adjustment request. . The petition shall also contain such additional information that the Town may deem appropriate.

30-5-107 Land Use Application Materials

A. The Town of Berthoud has many different types of applications to authorize use of property. Each type of land use application process will be described in this section. The required application materials will be listed in the Land Use Application Materials Table and narrative found in this section.

B. For all land use applications, the following applies:

1. Application Process. Refer to the Land Use Processes and Procedures Table and narrative section.

2. Public Notice. Refer to the Public Hearing and General Notice Provisions Table.

3. Criteria for Approval. Refer to the Intent section as well as additional Criteria for Approval in each individual application type found below. The Criteria for Approval is used to evaluate if the application can be approved.

4. Upon approval of any land use application, the applicant has thirty days to finalize the materials and return documents to the Town for recording. If materials are not provided within this timeframe, the applicant may be considered void.

5. The Town Administrator, the Community Development Director, or their designee may waive certain application requirements, or may require additional application requirements, for land use applications for development or redevelopment of property within either the Mountain Avenue Overlay District or the Innovation Overlay District. Rationale for waiving such requirements shall be documented in writing and filed with application materials with the application record. Rationale shall be relative to site-specific conditions, not due to inconvenience or applicant/owner-induced hardships.

C. Application materials for a Site Plan and Use by Special Review applications are listed below.

1. Application Forms and Fees
    a. Application Form provided by the Town
    b. Memorandum of Understanding for Development Review fees on a form provided by the Town
    c. Fees. The required application fees and any development review deposit fees will be provided to the applicant at the pre-application meeting. Fees are due upon submittal of the application.
2. Evidence of property ownership
    a. Title Commitment: Dated no more than 30 days from the date of application submittal.
3. Neighboring Property owner list
    a. A list of property owners and the source of the list in a format acceptable to the Town.
    b. Refer to the public hearing and general notice provisions section of Chapter 30 of the Berthoud Municipal Code.
4. General standards for all mapping products found in the subdivision section of this Code shall be used as a guideline for land use mapping products. Depending on the nature of the land use permit, some of the requirements for a subdivision are not applicable for land use. Each applicant should work with the Community Development Department regarding expectations of the mapping products for land use permitting.
5. Construction Drawings at the 100% level are required to be submitted with land use applications. These plans are to be fully detailed with all civil engineering components finalized including precise calculations, material specifications and complete annotations for construction. All documents are to be fully-coordinated across disciplines inclusive of accurate cross-referencing, finalized alignment, profiles and details for elements like storm drains, roadways or retaining walls, for example. Applications should review the Construction Drawings requirements found in the Subdivision requirements section of this Code and shall be used as a guideline for land use construction drawings. Depending on the nature of the land use permit, some of the requirements for a subdivision are not applicable for land use. Each applicant should work with the Community Development Department regarding expectations of the mapping products for land use permitting.
    a. Site improvements plan.
    b. Utility plan. Refer to the Town of Berthoud Engineering and Infrastructure Design Standards and Construction Specifications for the details required for application submittal.
    c. Grading Plan and Drainage Report. Refer to the Town of Berthoud Engineering and Infrastructure Design Standards and Construction Specifications for the details required for application submittal.
    d. Lighting Plan prepared in accordance with the Outdoor Lighting and Dark Skies Section of this Chapter.
    e. Geotechnical Report.
    f. Geologic study. If upon referral to the Colorado Geologic Survey (CGS), the CGS requires a geologic study, then this report must be prepared by a registered professional engineer or professional geologist and shall address the following:

i. Site conditions
ii. Geologic conditions
iii.Engineering considerations and limitations
iv. Additional investigations necessary per the CGS

6. Landscape, Irrigation, Parks and Open Space and Parking plan prepared in accordance with the Town's Landscape Design Guidelines and the Design Section of this Chapter and shall include:
    i. Project name.
    ii. Scale, north arrow and date of preparation.
    iii. Existing and proposed streets and street names.
    iv. Lot lines, easements and public rights-of-way as shown on the subdivision plat, including gross and net area of all parcels.
    v. Location of proposed building footprints and parking areas.
    vi. Location of storage, loading and service areas.
    vii. Existing and proposed two-foot contours (based on USGS datum).
    viii. General grading concepts for improvements, typical cross-sections of streets and special treatment areas.
    ix. Existing site features including ditches, trees, shrubs and groundcovers and any drainage ways, wetlands or wildlife habitat present on the site.
    x. All existing trees within the proposed site and adjacent to the site must be accurately identified on the plan. Existing trees must be labeled as to their size, species and if they are intended to remain, be removed or transplanted. All replacement mitigation trees will need to be shown separately on the plan. Tree protection standards for existing trees to remain shall be included on the plan.
    xi. Natural features, wetlands, wildlife corridors, floodplains, streams, ditches and other waterways.
    xii. Define areas to be considered open space and if public or private. Indicate how open space will be maintained including: erosion control, revegetation, and weed management during and after construction.
    xiii. The location of existing and proposed utilities and easements. Utility lines can be 'ghosted' in on the landscape plan to vary the line types for cleaner drawings.
    xiv. Acreage and percentages of parks, trails and open spaces.
    xv. Landscaping around signage, structures and site amenities.
    xvi. The extent and location of proposed trees, treelawns, shrubs, groundcovers, perennials turf, fences, walls, and other site amenities, for example. Plant materials are to be drawn at two-thirds of its mature size.
    xvii. Landscape schedule [i.e. a table] including the represented plant symbol, Latin name, common name, planting size and number of individual plants. All plant materials are to meet the minimum size requirements as provided in this Code. Provide the percentage of each material to illustrate how the diversity standards are met.
    xviii. Location of fences, walks, etc.
    xix. Proposed treatment of all ground surfaces must be clearly indicated, including turf, paving, mulch, native grass, seeded grass, etc. Grass areas are to be specified as seed or sod, and a seed mix/rate specified.
    xx. Detail drawings at 1" = 20' to illustrate typical perimeter treatment, buffering, front yard and any special treatment areas on site.
    xxi. Sight distance triangles must be shown at street intersections pursuant to this Code.
    xxii. Project specific landscape notes and details to ensure the proper planting, establishment and survival of plant materials. Additional notes detailing the warranty for plant materials and continued maintenance shall be included.
    xxiii. Proposed grading of the project site, including drainage swales, detention basins, retaining walls and any off-site infrastructure improvements.
    xxiv. Notes for conservation and retention of top soil and landscape soil preparation.

xxv. Restoration, revegetation or enhancement of disturbed natural areas or open space feature.
xxvi. Park structures, signage, play equipment, and other landscape or park amenities and appurtenances.
xxvii. Buffering plan
xxviii. Park and open space plan
    a. Park and open space distribution and location with acreages and percentages
    b. Neighborhood identity features
    c. Required buffer areas
    d. Connection to regional trails, and trails and sidewalks located on adjacent properties
xxix. Pedestrian network
    a. Location of all trails and sidewalks, and connection to the regional trails system and sidewalks and trails on adjacent properties
    b. Plan for off-site sidewalk or trail improvements including ¼ mile pedestrian shed beyond the project boundary.
    c. Depiction of bike lanes or other multi-modal features.
    d.
xxx. Provide a landscape maintenance plan inclusive of irrigation practices for different planting areas, weed control, replacement of diseased or dead materials, and mowing. Refer to the Landscape Guidelines.
xxxi. Irrigation Plan shall be prepared in accordance with the Town's Irrigation Plan Guidelines.
xxxii. Neighborhood identity features shall be identified.
xxxiii. Parking plan in compliance with the parking section of the Design Standards found in this Chapter.
xxxiv. Hydrozone analysis shall detail the proposed consumption of potable and non-potable water for both interior and exterior uses. Indicate the intended source of water for potable and non-potable water uses. A table shall be created and placed on the Landscape Plan illustrating acreage per consumption type outlined in the Water Rights Dedication section of this Chapter. A sample table is included below as an illustration of the data required:

Project Name											
Hydrozone for landscaping common spaces prepared by:											
Proposed source of water:											
	Project acreage	X	Water demand in acre feet/ acre	=	Total Acre-feet of water needed		Project acreage	X	Water demand in SFE/acre	=	Total number of SFE needed
Natural areas, open water, impervious surface			0						0		
Native seed area			0.8						2		
Lawn grass, playing fields, tree/shrub beds, etc.			3						7.5		
Non-turf vegetation			1.33						3.25		
Total quantity of acre-feet of water needed							Total quantity of SFE needed				

To complete the following table, refer to the Water Rights Dedication section of this Chapter and list the proposed lot sizes in the right hand column and then complete the table per the column titles.

Project Name			
Water Calculation for potable use prepared by:			
Proposed source of water:			
	If non-potable water is proposed for irrigation on individual lots, provide the quantity required in this column	If non-potable water is proposed for lot irrigation, provide the quantity of potable water required in this column	If potable water is proposed for both outdoor and indoor uses, provide the water required in this column
Lot size/ number of lots			
Lot size/ number of lots			
Lot size/ number of lots			
Lot size/ number of lots			
Total SFE required			

Raw water dedication. Prior to the issuance of a building permit, the applicant shall provide to the Town funds to purchase sufficient raw water or rights thereto for that permit. At the time of Final Plat, all water necessary for irrigation of parks, open space, golf courses, playing fields, and similar public areas shall be dedicated to the Town per this Code.

7. Architectural diversity plan/common architectural guidelines for non-residential projects inclusive of signage shall be provided.
    a. Graphics or illustrations of proposed exterior elevations.
    b. Provide complete building elevations, drawn to scale, with illustrations of all colors and identifying major materials to be used in the structure(s).
    c. Building floor plans, sectional drawings, perspective drawings, models, and/or computer visualizations when the impacts of a proposal warrant such information.
    d. Architectural standards for the development. Standards in addition to those found in the Town's Architectural Guidelines and Design Standards section of this Chapter shall be provided to illustrate a sense of place for individual developments.
    e. Development sign plan.
        j. Provide a plan illustrating a unified sign plan for the development. Illustrate how the sign will be integrated into the overall site inclusive of landscaping, sight distance, etc.
8. Narrative materials.
        a. The applicant shall state how the requirements of the Intent Section will be met if not exceeded.
        b. General description of the plan to manage drainage and stormwater
        c. Statements regarding utility provision (potable and non-potable water, sanitary sewer, stormwater management, dry utilities). Describe utility capacity and the need to extend or upgrade lines. Describe the source of water and the quantity of water needed.
        d. Duplicate the landscape plan hydrazone analysis in narrative materials.
        e. Describe how the landscape and irrigation plans meet the requirements of this Chapter, the Landscape Design Guidelines, and any overlay district the property is located within.
        f. Describe key findings in the Traffic Impact Study inclusive of anticipated on- and off-site improvements and phasing for these improvements.
9. Supporting documents.
    a. Traffic Impact Study. This study must be prepared by a professional traffic engineer and identify the project impacts to the local and regional traffic system. The direct roadway impacts and proposed share in the cost of regional improvements and intersections must be identified for the project.
    b. Mineral, oil and gas documentation. Evidence that the surface owner has contacted all lessees of mineral, oil and gas rights associated with the site. Included in the evidence must be the name of the current contact person, their phone number, and mailing address for each of the mineral

owners or lessees. Said evidence may be provided in a mineral interests report prepared by a certified landman, title company, or attorney. See C.R.S. §§ 24-65.5-101, et seq

c. Colorado Historical Society (CHS) records search. At the discretion of the Town and in consultation with the Berthoud Historic Preservation Advisory Committee (HPAC), an applicant may be required to provide the Town with a CHS records listing historically or archaeologically significant findings on the property being subdivided at their expense. If a listing shows a significant finding, a site-specific historic survey per the requirements of the CHS is required. If, in coordination with the applicant, the Town Board decides to protect any historic resource, a protection plan must be developed in consultation with the HPAC.

d. General ecological resource survey. Prepared by a qualified biologist, geologist, ecologist, or similar qualified professional, a survey identifying the potential/absence/habitat of a threatened or endangered species and wetlands or other ecologically sensitive area. Said survey shall make practical recommendations regarding treatment or mitigation of the findings.

e. Deed for public lands. The applicant shall submit to the Town a warranty deed and title insurance for all lands dedicated on the Final Plat and to be accepted by the Town.

10. Agreements. The following agreement shall be secured and provided to the Town when requested.

e. Development Agreement. Prior to recording the final subdivision approval document, the applicant shall enter into a Development Agreement with the Town for all public improvements including on-site and off-site improvments which may include and not be limited to water, sanitary sewer, non-potable water, stormwater, sidewalks, street trees, traffic improvements, for example. See the Development Agreement and the Construction of Public Improvements Sections of this Chapter.

f. Floodplain use permit from the Town.

g. Agreement with irrigation companies.

h. Other agreements that may be necessary to allow the subdivision of land to occur.

2. Additional materials. At the Town's discretion and depending on the proposed subdivision and its potential impact to the community, the Town may request additional materials.

30-5-108 Land Use Application Types

A. The Town of Berthoud has many different application types of land use applications, each of which will be described in this section. The required application materials are listed in the Land Use Application Materials Section.

1. Plot Plan. Plot plans illustrate the relationship of a building to the property. A plot plan is required to apply for a building permit and is a part of the building permit process. The plot plan shows where the proposed building or structure will be located on the lot as well as the architectural design of the structure so the Town can establish that the proposed location will comply with all applicable regulations. A plot plan must illustrate the building in relationship to the property including: the building footprint, the tree lawn, utility lines, driveways and curb cuts, sidewalks, utility boxes, irrigation lines, street signs, for example. Land use applications and a subdivision process may be required prior to application for a building permit.

2. Site Plan. Site Plans illustrate the relationship of a building, access, site circulation, landscaping, easements, lighting, and parking, for example. The Site Plan shows how the lot will be developed so that the Town can ensure that the site design will be in compliance with all Town regulations and this Code. Approval of a Site Plan review application is a prerequisite to applying for a building permit for all new multi-family (excluding duplexes), commercial, and industrial developments. Refer to the Land Use Table for uses that may be contemplated through the Site Plan permit process. The standard administrative Site Plan review process is found in the Land Use Processes and Procedures Table. There are three alternatives to the administrative Site Plan and these are listed below.

a. The Site Plan Review application process may also be a requirement for redevelopment properties and the change of use of a property or structure. The Town Administrator, the Community

Development Director, or their designee may waive certain application requirements for redevelopment of property within either the Mountain Avenue Overlay District or the Innovation Overlay District. Rationale for waiving such requirements shall be documented in writing and filed with application materials with the application record. Rationale shall be relative to site-specific conditions, not due to inconvenience or applicant/owner-induced hardships.

b. Site Plan applications may be referred to the Planning Commission for the Commission's review and action, based on a determination that the proposed development's complexity, projected impacts, or proximity to conflicting land uses merits such action.

i. The application and notice of the referral shall be sent to the Planning Commission for its review within a Public Hearing and action.

ii. Appeals of any Planning Commission final decision may be made to the Town Board acting as the Board of Appeals using the appeal procedures found in this Section

iii. *Board consideration of appeals.* The Board of Trustees shall consider any appeal within 45 days of the close of the 14-day appeal period, except an appeal associated with a concurrent development application requiring Board review or approval, shall be considered with final action on the concurrent development application. The Board shall apply the Site Plan review criteria to uphold, modify, or reverse an earlier decision.

b. Fast Track Site Plan applications for Multi-Family affordable housing developments and Mixed Use developments containing an affordable housing component.

i. Multi-family residential developments containing a minimum of fifty (50) percent of the units to be developed for affordable housing are eligible for the expedited review process outlined in the Town of Berthoud Expedited Site Plan Guidelines. Developers may utilize this fast track process or developers may utilize the standard Site Plan process when proposing an Affordable Housing development.

j. If a Variance is needed, the Variance Section of this Chapter shall be followed and processed concurrently with the Fast Track Site Plan utilizing the Fast Track processing standards.

ii. See the definition of Affordable housing in C.R.S. 29-32-101(2) and 29-32-105(2).

iv. To quality for the Town's fast track Site Plan process, the developer shall provide documentation on how the affordability and Area Median Income (AMI) standards shall be maintained in perpetuity in a form acceptable to the Town. This information shall be provided during the pre-application process.

v. Fast Track Site Plan Review (and Variance process, if needed) begins at the time the applicant submits a complete application following the required pre-application process.

1. A complete application shall include the submittal of all Site Plan application materials listed in this Section inclusive of the 100% Construction Document Plans. These materials shall be completed according to site-specific directions provided during the pre-application process.
2. Staff shall have ten business days to determine if the application is complete. If the application is not complete, the applicant is afforded time to provide all necessary application materials.
3. The staff review time of 90 days shall start when the application is determined to be completed.
4. The Standard site plan review process shall be followed for referral agency review, public notice and preparation of the staff report.

5. The applicant shall receive a Notice of Decision found in the Staff Report for an Administrative Approval from the Community Development Director after the review period and the decision shall contain whether the application is approved or denied.
6. Modifications to an approved Fast Track Site Plan may require a new application to be made.

vi. The applicant shall enter into a Development Agreement, if necessary per the Development Agreement Section of this Chapter and the site-specific improvements necessary for the development. The process to enter into the Development Agreement shall not exceed 90 days. Required elements of the Development Agreement shall be provided by the Town during the Site Plan pre-application process.

vii. The Building Permit process shall not exceed 90 days for review.

viii. Extensions to development review, development and finalization of a Development Agreement, and the Building Permit processing for a Fast Track project may be granted as described below:

a. The applicant may request a one-time 90-day extension;
b. An extension may be granted to allow time to comply with a state law or court order, which time shall be determined by the state law or court order;
c. An extension may be granted to allow time to address comments from an agency that has approval authority over the project and the review timeline adherence is outside the control of the Town of Berthoud;
d. The Town may extend it's review period by an additional 30 days in order to address additional comments or concerns that arise during development review. The Town may extend it's review period by multiple increments of 30 days, however it is not the intent of the Town to unnecessarily delay Fast Track development review. The applicant is encouraged to respond within five business days' receipt of the need to extend development review.

3. Use by Special Review. Certain uses listed in the Land Use Table are more intensive and are subject to the granting of a Use by Special Review permit. Use by Special Review. Because of their unusual or special characteristics, Uses by Special Review review require additional evaluation so that they may be located properly with respect to their effects on surrounding properties. Refer to the Land Use Table for uses that may be contemplated through the Use by Special Review permit process.

a. Uses by Special Review may be permitted subject to such conditions and limitations as the Town may prescribe to ensure that the location and operation of the use will be in accordance with the Intent section of this Chapter. The scope and elements of any Use by Special Review may be limited or qualified by the conditions applicable to the specific property. Where conditions cannot be devised to achieve these objectives, applications for conditional use permits shall be denied.

4. *Post approval actions for Site Plan and Use by Special Review Permits.*
   a. *Building Permit.* A building permit shall be issued only when the land use permit has been approved. However, with the approval of the Town, an applicant may submit a building permit application concurrent with the land use application. Building permits shall not be issued for any development that is not in conformance with the approved land use application.
   b. Development Agreement. Depending on the nature of the Land Use Permit and extent of public improvements needed, a Development Agreement may be needed. See the Development Agreement section of this Chapter.
   c. *Amendments to approved Land Use Permits.*
      i. Minor variations in the location of structures, improvements, or open space areas caused by engineering or other unforeseen difficulties may be reviewed and approved by the Town Staff.

Such changes shall not exceed ten percent of any measurable standard or modify the use, character, or density of an approved Site Plan. All plans so modified shall be revised to show the authorized changes and shall become a part of the permanent records of the Town.

ii. Changes that exceed the ten percent threshold, or other major modifications (such as changes in building size or footprint, relocation of access points, changes to required parking, etc.), shall be considered as a application. A complete application shall be prepared and submitted in compliance with the requirements set forth in this Section.

5. Accessory Uses and Structures

A. Purpose. This section establishes minimum standards for accessory uses and structures that are incidental and subordinate to principal uses. These standards are intended to minimize adverse impacts on surrounding properties and the community.

B. Intent. Accessory uses and structures are intended to allow property owners the full use of their property while maintaining the integrity of and character of the neighborhood and community. To accomplish these goals, accessory uses and buildings shall be erected and used only for purposes that are clearly secondary and incidental to the principal use of the property and shall be located on the same lot with the principal use.

C. Accessory Use and Structures Criteria. An accessory use or structure is normally incidental to a principal use. Accessory uses and structures shall comply with all the following criteria:

1. The accessory use shall be clearly incidental to and consistent with the principal use in the following measurements:a. Lot/floor area devoted to the use or structure,

b. Economic production of the accessory use,

c. Traffic generation to the site, and

d. Customer/visitor generation

2. The accessory use shall be commonly associated with the operation of the principal use;

3. The accessory building/use shall be built and/or constructed only in conjunction with the principal use;

4. The accessory use shall be operated and maintained under the same ownership as the principal use; and

5. The accessory building shall not be used for living or sleeping unless the use meets the criteria of an Accessory Dwelling Unit as defined in the Additional Standards for Accessory Dwelling Units section below.

D. General Standards for All Accessory Uses and Structures.

1. Size. Accessory uses and structures shall not violate the dimensional, parking, landscaping, or open space standards of the applicable zoning district when taken together with the principal use or structure.

2. Timing. Accessory uses or structures are not allowed until the principal use or structure is established unless otherwise stated.

3. The accessory building shall adhere to the Dimensional and Bulk Standards of this Chapter.

E. Additional Standards for Accessory Dwelling Units. Unless otherwise noted in the Land Use Table of this Chapter an accessory dwelling unit in a detached building or in a portion of a single-family dwelling unit is allowed in those zoning districts where the use is listed as a use by right and where the use meets the following requirements:

1. Occupancy.

a. The accessory living area may be occupied by one additional family as defined by this code, separate from the principal dwelling unit.

2. Number, Size, and Type.

a. Only one accessory dwelling unit is permitted per lot.

b. The total square footage of the accessory dwelling unit shall not exceed 850-square feet.

c. The accessory dwelling unit shall be located not forward of the principal dwelling, shall match the design of the principal dwelling, and shall follow the zone district setback standards.

d. Mobile homes and recreational vehicles shall not be used as accessory dwelling units.

e. The single-family character of the property shall be maintained.

b. Refer to the Impact Fee section of this Chapter.

5. Additional Standards for Home Occupations.

    a. Purpose: The purpose of the Home Occupation Section is to regulate the conduct of operating business activity in a residence or other structure on the same property as a residence.

    b. Home occupations must meet the following standards:

        i. In addition to the family occupying the dwelling containing the home occupation, there shall not be more than one outside employee working at the site of the home occupation.

        ii. The home occupation shall not exceed 1,000 square feet or 30 percent of the total floor area of the dwelling, whichever is less, or can be located in an accessory building not to exceed 500 square feet. The home occupation shall be conducted entirely within the dwelling or designated accessory building.

        iii. The home occupation shall be clearly incidental and secondary to the use of the dwelling for dwelling purposes and must not change the residential character thereof.

        iv. There shall be no change in the outside appearance of the building or premises or other visible evidence of the conduct of such home occupation, including advertising signs larger than two square feet in total size. No other displays or advertising that solicit or direct persons to the address other than the single sign limited to two square feet in total area is permitted.

        v. There must be no exterior storage on the premises of material or equipment used as a part of the home occupation, unless it is enclosed and lot coverage requirements for accessory uses are met.

        vi. No equipment or process shall be used in such home occupation which creates any glare, fumes, odors, smoke, noise or other conditions detectable to the normal senses off the lot, if the occupation is conducted in a single-family dwelling, or outside the dwelling unit if conducted in other than a single-family dwelling.

    c. The following uses because of their tendency to go beyond the limits permitted for home occupations and thereby impair the use and value of the residential area shall not be permitted as home occupations:

        i. Marijuana businesses including allowed marijuana business as defined in this Chapter

        ii. Natural Medicine Center or Natural Medicine Business as defined in this Chapter

        iii. Auto repair or motorized implement repair;

        iv. Dance, music or other types of instruction (if more than four students being instructed at one time);

        v. The painting of vehicles, trailers or boats;

        vi. Private schools with organized classes;

        vii. Welding shops;

        viii. Nursing facility(ies);

ix. Retail or wholesale sales to consumers upon the premises not incidental to the home occupation (e.g. hair care products at a hair stylist are incidental sales).

d. All exterior aspects of the home occupation operation shall not disrupt the residential character of the area.

e. The maximum number of vehicle trips per day for clients which may visit the home occupation per day is 15.

f. A Home Occupation must maintain a Town of Berthoud Business License.

F. Additional Standards for Storage Buildings and Detached Garages.

1. Each lot may include detached storage buildings and detached garages for the sole use of the occupants of the principal building and the principal use on the lot.

2. . Only those buildings that are designed, constructed, and approved by the Town of Berthoud Building Division as storage buildings or detached garages may be used for this purpose.

3. Manufactured homes cannot be used as storage buildings, barns, or garages.

4. Semi-trailer with attached running gear (i.e., axels, wheels) cannot be used as storage buildings or detached garages.

5. Conex containers cannot be used as storage buildings or detached garages.

6. The total combined ground floor area of all accessory storage buildings and detached garages shall not exceed ten percent of the lot's net area.

30-5-109 Board of Adjustment

A. *Purpose*. Pursuant to §31-23-307(1), C.R.S., the Board of Trustees hereby appoints the Planning Commission of the Town of Berthoud to serve as the Board of Adjustment. The Board of Adjustment shall hear and decide variances, waiver requests, and appeals from and review any order, requirement, decision, or determination made by any administrative official charged with the enforcement of any ordinance with respect to the Development Code of the Town of Berthoud.

B. The Board of Adjustment shall have the following powers and duties, all of which shall be subject to and in compliance with the laws of the state, in harmony with the purpose and intent of this code and the most appropriate development of the neighborhood:

1. To hear and decide appeals from, and review any order, requirement, decision or determination made by an administrative official charged with enforcement of the provisions of this code;

2. To authorize variances from the terms of the Design Standards, Zoning, and Sign regulation sections of this Chapter, where the strict enforcement of this title would create a situation which would result in unreasonable application of these standards. When considering variances, the Board of Adjustment shall consider the following criteria:

a. The intent statements found in this Section have been met; and

b. The hardship was not created by the actions of the proponent; and

c. Such relief may be granted without substantial detriment to the neighborhood or the public good and without substantially impairing the intent and purposes of this code; and

d. Provided that there are exceptional circumstances applying to the specific piece of property which do not generally apply to the remaining property in the same zoning area or neighborhood; and

e. That the requested variance shall not authorize any permanent use not permitted in the zoning district; and

f. In circumstances where the property owners affected most directly, e.g. neighbors, concur in writing with the variance that fact shall be given significant (but not conclusive) weight in favor of the request.

3. To authorize, as variances, alterations in nonconforming uses and buildings. An altered nonconforming use previously authorized that has been discontinued for at least six months that has not been resumed or replaced by another nonconforming unless an extension of time is requested in writing prior to the expiration of the six month period. Nonconforming uses resuming after the six month expiration period will be required to applyfor the use through a new application and approval process. Alterations in nonconforming uses and buildings shall be authorized provided the Board of Adjustment determines:

   a. That the intent statements found in this Section have been met; and

   b. That the hardship on which the request for variance is based is not self-inflicted; and

   c. That the altered nonconforming use will not be greater in size, area, or impact than the original nonconforming use, and

   d. The altered nonconforming building or use will not have any greater adverse impact on the neighborhood than the current nonconforming building or use.

4. To authorize, as waivers, all or portions of the following processes in regards to platting, zoning and design standards for multiple lots from the Development Code of the Town of Berthoud with respect to the requirements of the following chapters only: Design Standards, Zoning, or Signs.

   a. Zoning regulations limited to setback encroachments or height limitations in conjunction with a Preliminary Plat approval, and;

   b. Design Standards limited to Site Plan, Preliminary Plat, or Use by Special Review application and approval criteria.

5. *Waivers.* Waivers shall be considered provided that the following procedures and considerations are met;

   a. *Waiver applications.* The applicant shall submit the following to the Town in conjunction with another application (re-zoning or Site Plan, Use by Special Review or Preliminary Plat only). All other cases shall follow the variance procedures.

      i. Explanation letter — identifying the waiver being requested and explaining what exceptional condition, practical difficulty, or unnecessary hardship exists to require the waiver. The letter shall also address how the waiver, if granted, will not be detrimental to the public good, create a conflict with the Town Comprehensive Plan or impair the intent and purpose of this Code.

   a. The Subdivision and Land Use Process and Procedures Table shall be followed.
   b. Notice shall be given in accordance with the public hearing and general notice provisions found in this Chapter.
   c. Unless otherwise stated in the Resolution, all waivers granted shall be commenced within six months of the time such waiver is granted; otherwise the waiver shall be null and void.

6. To perform each and all of the duties specified in section 31-23-307 C.R.S., together with all other duties or authority which may hereafter be conferred on it by the laws of the state.

C. The Board of Trustees reserves the authority to act as the Board of Adjustment with respect to all matters in the Development Code and as allowed per Section 31-23-307 C.R.S, specifically:

1. All variances not related to Design Standards; Zoning, and Signs.

2. All appeals not related to Design Standards; Zoning, and Signs.

3. Appeals of Final Plats: Appeals of actions of staff regarding Final Plats shall be taken to the Planning Commission after the filing of an appeal to the Town within ten days of the date of staff's decision on the Final Plat. Appeals may be filed by the applicant or any abutting property owner and shall specifically state the grounds for appeal. The Planning Commission shall consider the appeal as a new matter and act to approve, approve with conditions, or deny the Final Plat based on the review and approval criteria that apply to all Final Plats. Any timely appeal received must be scheduled immediately for review at the next available Planning Commission meeting, but in no event later than 30 days.

D. *Procedures generally*. The board of adjustment shall hold a public hearing on all applications and appeals, subject to the following:

1. The procedures found in the Subdivision and Land Use Process and Procedures Table shall be followed.
2. Notice shall be given in accordance with the public hearing and general notice provisions found in this Chapter.
3. Unless otherwise stated in the Resolution, all variances granted shall be commenced within six months of the time such variance is granted; otherwise the variance shall be null and void.
4. The concurring vote of a majority of the board of adjustment shall be necessary to reverse any order, requirement, decision, or determination of any administrative official, or to decide in favor of the applicant in order to implement a variance.
5. *Criteria for approval of variances and waivers.* The condition of any variance or waiver authorized shall be stated in writing in the minutes of the Board with the justifications set forth. Waivers and variances may be granted only if they meet one of the following criteria:
    a. That the hardship on which the request for variance or waiver is based is not self-inflicted.
    b. The variance or waiver, if granted, will not alter the essential character of the neighborhood or district in which the property is located, nor diminish the value, use or enjoyment of adjacent property.
    c. The variance or waiver, if granted, is the minimum variance or waiver of applicable Code provision that will afford relief and is the least modification possible of the Code provisions which are in question.
    d. That such practical difficulties or unnecessary hardship has not been created by the applicant.
    e. The variance or waiver would substantially alleviate an existing, defined and described problem of Town-wide concern or would result in a substantial benefit to the Town by reason of the fact that the proposed project would address an important community need.
    f. The plan as submitted will promote the general purpose of the standard for which the modification is requested, equally well or better than a plan which complies with the standard for which a modification is requested.

C. *Appeal procedures*. Every appeal to the board of adjustment shall be filed in writing not later than one month from the date of the order, requirement, decision, or determination being appealed. The board shall have no jurisdiction on any appeal not brought within 30 days from the date of the order, requirement, decision, or determination.

D. *Administrative Variances*. The Community Development Director is authorized to approve administrative variances from setback requirements up to ten percent of the required setback after finding the proposed setback is consistent with the intent and purpose of this code, and the requirements of this Section.

30-5-110 Development agreements

A. *Agreements and Improvements.* A Development Agreement stating that the applicant covenants and agrees to construct any required public improvements shown in the land use or subdivision Final Platdocuments together with security in a form approved by the Town is required. No subdivision plat shall be signed by the Town or recorded at the office of the Larimer or Weld County Clerk, and no building permit shall be issued for development until a Development Agreement between the Town and the applicant has been executed. Such agreement shall include a list of all agreed-upon public improvements and landscaping, an estimate of the cost of such improvements, the form of guarantee for the improvements, and any other provisions or conditions deemed necessary to ensure that all improvements will be completed in a timely, quality and cost-effective manner.

B. Other agreements or contracts setting forth the plan, method and parties responsible for the construction of any required public improvements shown in the Final Plat documents may also be required.

C. As required by this Code and all applicable laws, rules and regulations, the applicant shall apply to the Town for inspection of improvements.

D. The following improvements shall typically be constructed as determined by the Town:

1. Road grading and surfacing.
2. Curbs.
3. Street lights.
4. Sidewalks.
5. Sanitary sewer collection system.
6. Storm sewers or storm drainage system, as required.
7. Potable water distribution system.
8. Non-potable water distribution system.
9. Fire hydrants.
10. Utility distribution system for public parks and open space.
11. Street signs at all street intersections.
12. Permanent reference monuments and monument boxes.
13. Underground telephone, telecommunications, cable, electricity and gas lines.
14. Berm or fence along major arterial and collector streets.
15. Required landscaping including on open space.
16. Required landscaping including park improvements.
17. Tree lawns.
18. Under drains.
19. Trails, trail heads and associated improvements.
20. Required floodway improvements.
21. Required irrigation ditch improvements.
22. Required off-site improvements.

23. Any and all improvements not mentioned above.

E. *Time for completion.* Unless a vested right is established in accordance with the Berthoud Development Code, commencement of construction of all or a portion of the approved Final Plat shall occur within one year from the date of recordation of said Final Plat. The required time for the completion of all required improvements for all or a portion of said Final Plat shall be two years from Town's issuance of a grading or other permit to commence construction. However, the Board may, for good cause shown, extend such time for commencement or completion of the required improvements upon request from the applicant. Upon completion of such improvements within the required time and approval thereof by the Town, the Town shall cause the cash or letter of credit to be released within 30 days of the Town's acceptance of such improvements and receipt of the required as-built drawings. When such improvements are not completed within the required time, the Town may cause the proceeds of the cash, letter of credit or other financial guarantee to be used to close or complete the required improvements in accordance with the terms and provisions of the Development Agreement.

F. *Type and amount of security.* The Town will accept security or collateral in the following types and amounts:

1. Payment and performance bonds in the amount of 100 percent of the cost of improvements plus 15 percent contingency, or

2. Cash, certified funds, irrevocable letter of credit, or other form of security as approved by the Town in the amount of 25 percent of the cost of improvements plus contingency.

G. *No partial release of security.* No portion of the security for improvements will be released until the expiration of the warranty period. The required warranty period shall commence upon completion and initial approval of all required improvements and landscaping in accordance with the terms and provisions of the Development Agreement.

H. *Warranty.* All workmanship and materials for required improvements shall be warranted for a minimum period of two years as specified in the Development Agreement and this Code.

J. *Platting Required.* No Final Plat shall be recorded until the Developer and, if applicable, the Metropolitan District have executed a satisfactory Development Agreement with the Town providing for the installation of all public infrastructure required for the development as set forth in the Plat. In addition, no Development Agreement shall be recorded until all on and off-site easements and rights of way necessary for all public improvements have been acquired, and a Landscape Plan has been approved by the Town.

30-5-111 Pre-Construction Activities and Responsibility of Construction of Public Improvements

B. Prior to the pre-construction meeting, the issuance of a building permit or the issuance of a grading permit, the following documents shall be provided to the Town as needed for the particular development:

1. Surety or collateral in a form acceptable to the Town in the amount and form stipulated in the Development Agreement and guaranteeing adequate safe closure or completion of all public improvements for each phase of construction necessary for the subdivision. The amount of the security shall be either a Payment and Performance Bond in the amount of 100 percent of the estimated cost of public improvements or a Letter of Credit or other acceptable collateral in the amount of 25 percent of the estimated cost as approved by the Town Engineer for constructing all public improvements, unless otherwise provided for in an approved Development Agreement as described in Section 30-6-112 of this Code. Oil and gas surface use agreement.

a. Raw water dedication. The applicant shall provide payment or water to the Town in accordance with the Water Rights Dedication Section of this Code.

2. List of contractors. List of all contractors that will be performing the improvements.
3. Proof of insurance. Proof of workman's comprehensive insurance and liability insurance for each contractor.
    a. An approved adjudication of water rights and a plan of augmentation.
    b. A FEMA approved application (i.e., Conditional Letter of Map Revisions [CLOMR] or Letter of Map Revisions [LOMR]).
    c. A Town-approved Flood Development Permit.
2. Documentation identifying who will own and maintain open spaces. Funding mechanism for maintenance of open space including type of management of such open space.
    a. Fully-executed deed for public lands for dedication of public sites for open space or other civic purposes.
3. Right-of way permits from the Town.
4. A State Highway utility permit from CDOT.
5. A State Highway access permit from CDOT.
6. A construction dewatering permit from the Colorado Department of Public Health and Environment.
7. SWMP
8. A 404 Permit from the Army Corps of Engineers.
9. An Air Pollution Emission Notice (APEN) from the Colo. Department of Public Health and Environment.
10. A permit for work in any ditch right-of-ways from individual ditch companies.
11. Open space deed restriction. Areas designated as open space shall be protected by a deed restriction or other appropriate method to ensure that they cannot be subdivided or developed in the future and will remain as open space until the use is modified by the Town.
12. Construction traffic control plan. Applicant will develop a plan for Town Engineer review that addresses construction traffic, construction water, temporary road closures, street repairs, dust, noise and other construction-related concerns.
13. Other agreements, certificates, affidavits, enforcements or deductions as required by the Town.

B. Failure to comply with the Town's Municipal Separate Storm Sewer System (MS4) requirements shall result in stop-work orders and an inability to receive building permits and development review and subdivision approvals for future development.

30-5-112 Certification Blocks

A. Preliminary Plat, Final Plat and Replat Applications

LEGAL DESCRIPTION AND DEDICATION:

KNOW ALL PERSONS BY THESE PRESENTS: That the undersigned, being the owners of _____, located in Section _____, Township_____, Range_____ of the 6th Principal Meridian, Town of Berthoud, County of _____, State of Colorado, more particularly described as follows:

(LEGAL DESCRIPTION)

Have laid out, platted, and subdivided the above described land, under the name and style of _____, and by these presents do dedicate to the Town of Berthoud in fee simple the street and public "rights-of-way" as shown on the plats, and grant to the Town of Berthoud such easements and rights-of-way as are created hereby and depicted or, by note, referenced hereon, along with the right to install, maintain, replace and operate mains, transmission lines, service lines, and appurtenances, either directly or through the various public utilities, as may be necessary to provide such utility, cable television, water, electric, natural gas and sanitary services within this subdivision or property contiguous thereto, through, over, under, and across streets, utility and other easements, and other public places as shown on the plat. The sole right and authority to release or convey all or any such easements and right-of-way shall remain exclusively vested in the Town of Berthoud. All easements shall retain the right of ingress and egress for construction and maintenance of improvements. No permanent structures except fencing upon Town approval shall be allowed on any easement.

If owner is an individual(s):

Owner: John Doe

_____

If owner is a corporation, limited liability company, partnership, association or other business entity:

Owner: The ABC Corporation, a Colorado corporation

_____

By: John Doe, President

If owner is a trust:

Owner: The Jane Smith Trust

_____

By: John Doe, as trustee of the Jane Smith Trust

LIENHOLDER'S DEDICATION: The undersigned mortgagee, for good and valuable consideration does by these presents, hereby subordinate all of its rights to such fee simple dedications and grants of easements to the Town of Berthoud as are depicted and referenced hereon and to the terms and conditions of the development agreement and this Final Plat and agrees that the development agreement and this Final Plat shall constitute a first and prior lien upon the (project name) to the same extent as though it were actually executed and recorded prior to said lien or deed of trust.

DATE: _____
LENDER'S NAME

BY: _____

TITLE: _____

SURVEYOR'S CERTIFICATE:

I, _____, a Registered Land Surveyor in the State of Colorado, do hereby certify that the survey of _____ was made under my supervision and the accompanying plat accurately and properly shows said subdivision and is in compliance with the Subdivision Regulations of the Town of Berthoud.

_____
(Name, Registered Land Surveyors)
(Number)

RIGHT TO FARM STATEMENT: The Town of Berthoud has adopted a "Right to Farm" policy. All new and existing residents are expected to read and understand the policy. For a copy of the policy, please contact the Town of Berthoud.

SITE SPECIFIC DEVELOPMENT PLAN: ONLY FOR FINAL PLATS AND USES BY SPECIAL REVIEW WHICH VESTED RIGHTS HAVE BEEN ESTABLISHED IN ACCORDANCE WITH THE PROCEDURES AND APPROVALS REQUIRED BY THE BERTHOUD DEVELOPMETN CODE.

This plan/final plat constitutes a site specific development plan as defined in Article 68 of Title 24, C.R.S., as amended, and Chapter 30 of the Berthoud Development Code available at the Berthoud Town Hall, 807 Mountain Ave., Berthoud, Colorado 80513.

APPROVAL CERTIFICATES:

Approved by the Town of Berthoud, Colorado, this _____ day of _____, 20_____.

_____
Mayor

The foregoing plat is approved for filing and accepted by the Town of Berthoud, Colorado, this _____ day of _____, 20_____.

ATTEST: _____
Town Clerk

Approved by the Planning Commission of the Town of Berthoud, Colorado this _____day of_____ _____, 20_____.

_____
Chairperson

The foregoing map is approved for filing and accepted by the Town of Berthoud, Colorado this _____day of __ _____, 20_____.

ATTEST:_____
Town Planner

B. **Zoning Map Amendment Applications**

LEGAL DESCRIPTION:

KNOW ALL PERSONS BY THESE PRESENTS: That the undersigned, being the owners of _____, located in Section _____, Township_____, Range_____ of the 6th Principal Meridian, Town of Berthoud, County of _____, State of Colorado, more particularly described as follows:

(LEGAL DESCRIPTION)

This is to certify that the rezoning of the above-described property was approved by Ordinance No. _____of the Town of Berthoud, passed and adopted on the_____day of_____, 20____, and that the Mayor of the Town of Berthoud as authorized by said ordinance on behalf of the Town of Berthoud hereby for all acknowledges and adopts the said rezone upon which the certificate is endorsed for all purposes indicated hereon.

Approved by the Board of Trustees of the Town of Berthoud, Colorado this ____day of _____,20____.

_____
Mayor

The foregoing map is approved for filing and accepted by the Town of Berthoud, Colorado this _____day of __ _____, 20___.

ATTEST: _____
Town Clerk

Approved by the Planning Commission of the Town of Berthoud, Colorado this _____day of_____ _____, 20___.

_____
Chairperson

The foregoing map is approved for filing and accepted by the Town of Berthoud, Colorado this _____day of __ _____, 20____.

ATTEST:_____
Town Planner

C. **Neighborhood Master Plan and Use by Special Review Applications**

Approved by the Town of Berthoud, Colorado this ___day of _____ 20___.

_____
Mayor

The foregoing map is approved for filing and accepted by the Town of Berthoud, Colorado this ___ day of _____ _____ 20___.

ATTEST: _____
Town Clerk

Approved by the Planning Commission of the Town of Berthoud, Colorado this ___ day of _____20____.

_____
Chairperson

The foregoing map is approved for filing and accepted by the Town of Berthoud, Colorado this _____day of __ _____, 20____.

ATTEST:_____
Town Planner

D. **Administrative Amended Plat and Site Plan Review Applications**

Approved by the Town Administrator of the Town of Berthoud, Colorado, this ___day of _____20___.

_____
Town Administrator

Approved by the Engineer of the Town of Berthoud, Colorado, this _____day of _____20___.

_____
Town Engineer

The foregoing plat is approved for filing and accepted by the Town of Berthoud, Colorado this ___ day of _____ _____ 20___.

ATTEST: _____
Community Development Director

E. **Development Construction Plans**

Town of Berthoud Engineer Approval Statement

Town of Berthoud Approval

All work shall be constructed to the Town standards and specifications. These plans have been reviewed by the Town of Berthoud for concept only and general conformance with the Town standards and specifications. The review by the Town of Berthoud does not imply responsibility by the Town of Berthoud or the Town Engineer for accuracy and correctness of the plans and calculations.

These Plans are hereby approved for one year from the date of the Town Engineer's approval.

Approved By:

_____

Town Engineer Date

SECTION 6 DESIGN STANDARDS[1]

30-6-101 General provisions

A. **Applicability**. All development shall comply with the standards contained in this Section.

B. **Purpose.** These requirements are established to guide and direct future development to reinforce the existing character of the Berthoud community. The requirements will enable persons wishing to develop or redevelop property to have sufficient direction to enable them to properly plan proposed development or redevelopment rwithin the Town.

C. ***Relationship to zone district standards***. In the event of a conflict between a standard or requirement contained in the Zoning and the Design sections of this Chapter, the Zoning section shall prevail.

D - ***Consistency with the Comprehensive Plan***. Development and redevelopment projects shall be consistent with the vision established in the Comprehensive Plan. The Comprehensive Plan provides guidance to coordinate development and accommodate while maintaining the Town's distinctive character.

E - Consistency with Adopted Plans and Guidelines – Development projects shall be consistent with adopted design guidelines, overlay district, and area plans.

1. *Architectural design guidelines.* The Board of Trustees has adopted the "Character District Design Guide Place Types: Town of Berthoud Design Guidelines" ("Architectural Design Guidelines") by resolution. The Architectural Design Guidelines are intended to assist developers, builders, consultants, and the Town of Berthoud in creating basic guidance for the desired built form and may be amended from time to time by resolution of the Board of Trustees.

2. *Landscape Design Guidelines*. The Board of Trustees has adopted the "Landscape Design Guidelines" by resolution. The Landscape Design Guidelines are intended to assist developers, builders, consultants, and the Town of Berthoud in creating basic guidance for the desired landscaping and water conservation principles and may be amended from time to time by resolution of the Board of Trustees.

3. *Mountain Avenue Overlay District.* The Board of Trustees has adopted the "Mountain Avenue Corridor Design and Signage Plan" by resolution. The Corridor Plan is referenced in the Mountain Avenue Overlay District Section of this Chapter and the Guidelines are intended to assist developers, builders, consultants, and the Town of Berthoud in developing and redeveloping property within this District and may be amended from time to time by resolution of the Board of Trustees.

4. *1st Street Corridor Plan*. The Board of Trustees has adopted the "1st Street Corridor Plan" by resolution. The Corridor Plan is referenced in the First Street Overlay District Section of this Chapter and the Guidelines are intended to assist developers, builders, consultants, and the Town of Berthoud in developing and redeveloping property within this District and may be amended from time to time by resolution of the Board of Trustees.

F. ***Site design and compatibility.*** - All development and redevelopment shall be designed, engineered, and planned to:

1. Ensure compatibility with adjacent existing land uses and neighborhoods;
2. Provide interconnectivity throughout the community; and

3. Improve the overall visual quality of the Town.

G. Streets, trails, sidewalks, parks, and open spaces shall be interconnected between neighborhoods. Neighborhoods shall be distinctly identifiable through signage, unifying design themes, and required neighborhood identity features.

H. *Preservation of Historic Character*.The preservation of historical structures and property features, and the integration of such elements into future development or redevelopment, is encouraged. Preserved elements shall be incorporated in a manner that reflects the historical character of the property and reinforces the Town's sense of place.

I. *Density Transitions* - Where proposed residential development includes densities that differ from those of adjacent existing residential neighborhoods, the applicant shall:

1. Provide a physical buffer between developments; and

2. Incorporate a gradual transition from higher density to lower density.

The responsibility for providing and demonstrating compatibility rests with the developer of the higher-density neighborhood. Compatibility shall be established through measures including, but not limited to, landscaping, buffer depth, berming, and the reduction of density at the perimeter of the development.

J. *Agricultural heritage* - The historic agricultural heritage is important to the Town of Berthoud. The Right to Farm Policy adopted by the Town shall be adhered to.

30-6-102 Design standards and construction specifications

Pursuant to parts 1 and 2 of article 16 of title 31, C.R.S., there is hereby adopted by reference Engineering and Infrastructure Design Standards and Construction Specifications, 2020 Edition as published by the Town of Berthoud, 807 Mountain Avenue, Berthoud, Colorado 80513 ("Standards and Specifications"); provided that any penalty provisions are expressly not adopted. These Standards and Specifications may be amended in whole or in part. The subject matter of the Standards and Specifications relates primarily to the design and construction of public and private improvements. The purpose of this Section and the Standards and Specifications adopted herein is to provide minimum standards for safety, health, and general welfare of the Town by regulating the design, construction, choice of materials, location, maintenance and use of all Public and Private Improvements. Three copies of the Standards and Specifications adopted herein are now filed in the office of the Clerk of the Town of Berthoud, Colorado, and may be inspected during regular business hours.

30-6-103 Application of design standards

Town staff in its discretion, with final approval by the Town Administrator, and the Planning Commission will evaluate each proposal based on these standards and the context within which each project is located. The standards are intended to be specific enough to guide development but not so specific as to preclude creative design solutions. Applicants must conform to the design standards in this Section unless it can be demonstrated that an acceptable alternative meets one or more of the following conditions:

1. The alternative better achieves the stated intent;

2. The intent cannot be achieved by application of the standard in the specific circumstance;

3. The effect of other standards will be improved by not applying a particular standard;

4. Strict application or unique site features make the standard impractical:

5. An innovative or creative proposal better meets the goals of the Berthoud community.

In the event of any conflict between these standards and any more restrictive zoning, subdivision, or other Development Code requirement, the more restrictive regulation shall apply unless specific variance(s) are granted by the Town.

30-6-104 Lots and blocks

A. *Intent*. The intent of the block and lot standards is to continue the Town's existing block pattern in a manner that is compatible with site-specific environmental conditions.

B. *General provisions*.

1. *Blocks*. Streets shall be designed to create blocks that consider interconnectedness, topography, solar orientation, views, energy efficiency, and other design features. Block size shall be designed to create blocks that are generally a rectilinear or modified rectilinear shape. Amorphously shaped blocks are discouraged except where topography or other conditions necessitate that type of configuration.

2. *Lot dimension and configuration*.

a. Blocks shall be set within a street layout that includes a maximum average length of 400 feet from street centerline to street centerline.

b. Lot size, width, depth, shape, and orientation and building setback lines or build-to lines shall conform to this Chapter 30 and shall facilitate the placement of buildings with sufficient access, outdoor space, privacy and view.

c. Depth and width of properties shall be adequate to provide for off-street parking, landscaping, and loading areas required by the type of use and development contemplated.

d. Lot frontage. Street frontage shall typically not be less than 25 percent of the lot depth. Flag lots are prohibited unless otherwise approved as outlined in the Application of Design Standards Section of this Chapter..

e. Corner lots. Corner lots for residential use shall have extra width to accommodate the required building setback and utility easements on both street frontages. For a corner lot, the front of the lot is defined as the side where the property is addressed. In the case of a reverse corner lot, both sides abutting a street shall maintain a front yard setback.

f. Double frontage. Residential lots that front on two streets (double frontage) shall not be permitted unless otherwise approved by the Town as outlined in the Application of Design Standards Section of this Chapter.

g. Side lot lines. Side lot lines shall be substantially at right angles or radial to road right-of-way lines or centerlines.

h. Residential lot access to adjacent or nearest public street.

i. All lots shall have access to the public street system.

ii. Driveway access to a local or collector street from a single-family detached residential lot shall be limited to one driveway curb-cut or driveway access. A circular drive in which each access to the local or collector street is less than ten feet in width, separated by at least 30 feet and which is constructed as an integral part of the overall architectural design of the single family residence may be considered as a single driveway access.

iii. The slope of all driveways shall be no more than ten degrees.

30-6-106 Streets and alleys

Intent. The intent of the street standards is to establish a safe, efficient, attractive transportation system that promotes all modes of transportation and is sensitive to the environment.

General provisions. The local street system of any proposed development shall be designed to be safe, efficient, convenient and attractive. The local street system shall consider vehicular, bicycle, pedestrian, and transit elements in the design of the system. Streets shall be developed as an inviting public space and are an integral part of the overall community design in Berthoud.

A. *Complete streets.* To encourage all forms of transportation in Berthoud, and to lessen the reliance on automobile traffic, all new or redeveloped streets shall be developed as Complete Streets. Complete Streets include accommodations for each mode of travel recognizing that all streets are different and that the needs of various users will need to be balanced in a flexible manner. The standards as adopted within Larimer County Urban Area Street Standards (LCUASS), shall support the accommodation of all travel modes. Implementation may be flexible to respond to the context and character of corridors, with the ultimate intent of safely accommodating all modes.

B. *Tree-lined streets.* All streets shall include street trees on both sides of the street with the exception of rural roads and alleys. Allowances may be made in commercial, mixed use and industrial districts to group trees or reduce the number of trees as appropriate in order to allow view corridors that are framed by street trees into those types of developments.

C. *Street layout.* The street layout shall form an interconnected system of streets where feasible, primarily in a grid or modified pattern adapted to the topography, unique natural features, environmental constraints and open space areas. The street layout shall emphasize the location of neighborhood focus points, other internal open space areas, gateways, and vistas.

   1. The use of cul-de-sacs and other roadways with a single point of access shall be minimized. The integration of traffic calming features within and adjacent to residential areas shall be utilized when appropriate. Ten-foot tree lawns are required on arterial and collector streets.
   2. Street stubs shall be required in instances a proposed development is adjacent to an undeveloped property.
   3. Streets in new developments shall be designed to connect to the adjoining street network and/or adjoining street stubs.
   4. Internal access easements shall be required on all commercial and industrial developments, unless waived by the Town Engineer.

D. *Controlling street access.* A strip of land between a dedicated street and adjacent property shall not be reserved for the purpose of controlling access to such street from such property.

E. *Visibility at intersections.* No shrubs, ground cover, berms, fences, structures, or other materials or items between 24 inches and eight feet in height at maturity shall be planted, created or maintained at street intersections within the site distance triangle. Trees shall not be planted within the site distance triangle and the linear street distance included within a sight triangle shall not be part of the calculation for the total number of street trees needed in that project.

F. *Pedestrian crossings at street intersections and mid-block.* Pedestrian crossings shall be accessible to handicapped individuals and mid-block crossings may be required at the direction of the Town.

G. *Access.* Access to all subdivisions shall be from a public street system and driveways shall not access Colorado Highway 56 except as identified in the State Highway 56 Corridor Access Control Plan as amended.

H. *Street right-of-way dedication.* The full width of right-of-way for all streets being platted must be conveyed to the Town after final acceptance unless otherwise approved by the Town.

I. *Perimeter and dead-end streets.* When a street is dedicated which ends on the plat, the street right-of-way must be dedicated to the boundary of the plat. Dead end streets are prohibited except in unique situations and then only with approval of the Town.

J. *Street names.* Names of new streets shall not duplicate names of existing streets in Berthoud. However, new streets which are extensions of, or which are in alignment with, existing streets within the Town shall bear the names of such streets. Street naming and property address numbering will be coordinated between the applicant, Town of Berthoud and Larimer or Weld County as appropriate.

K. *General design standards.* Design of streets, curbs and gutters shall be in accordance with the Larimer County Urban Area Street Standards (LCUASS) (Loveland only) as amended, and with the Americans with Disabilities Act (ADA) standards.

The layout of arterial and collector streets shall be per the Town's Master Street Plan unless otherwise approved by the Board.

Utility pedestal locations shall be minimized in tree lawns and yards that abut streets.

30-6-107 Parking

A. *Intent*. The intent of this section is to provide adequate parking for motor vehicles while minimizing the visual impact of parking lots and structures.

B. *General provisions*. In all mixed use, commercial or industrial zone districts, off-street parking facilities for the storage of motor vehicles for the use of occupants, employees and patrons of the building or structures hereafter erected, altered or extended shall be provided and maintained as herein prescribed.

1. *Surface*. All parking and driveway areas and primary access to parking facilities shall be surfaced with asphalt, concrete or similar materials.

2. *Integrate parking lots with surroundings*. Parking lots shall not dominate the frontage of pedestrian-oriented streets, interfere with designated pedestrian or bicycle routes, or negatively impact surrounding neighborhoods. The pedestrian character of streets and buildings shall be maximized through continuity of buildings and landscape frontage.

3. *Landscaping*. Parking lots shall be landscaped, screened and buffered as provided in this Section.

4. *Shared-access*. Where feasible, parking lots shall share access drives and cross-access easements with adjacent properties having similar land uses.

5. *Off-street parking design*. Any off-street parking area shall be designed so that vehicles will exit without backing onto a public street unless no other practical alternative is available. Off-street parking areas shall be designed so that parked vehicles do not encroach upon or extend onto public rights-of-way, sidewalks or strike against or damage any wall, vegetation, utility or other structure.

6. *Circulation area design*. Circulation lanes within parking lots shall support the safe movement of vehicles without endangering pedestrians or impeding use of the parking area.

7. *Striping*. All parking lots shall be striped to identify individual parking spaces.

8. *Lighting*. All parking area lighting shall be full cutoff type fixtures. Any light used to illuminate parking areas or for any other purpose shall be so designed as to direct the light away from nearby residential properties and passing motorists.

9. *Shared off-street parking*. When there are opportunities to support parking demand through shared off-street parking for compatible uses (such as a movie theater and an office building), a parking study and shared parking agreements may be used to demonstrate the adequacy of the parking supply as a substitute for standard parking requirements. Reductions of between ten percent and 30 percent of the parking amounts called for in the Required Parking Table are possible.

10. *Adjacent on-street parking in commercial and mixed use districts*. In order to promote a pedestrian scale and encourage a perception of safety in the commercial and mixed use zoning districts, parking may be satisfied using adjacent on-street parking or shared rear-lot parking areas. A parking study and shared parking agreements shall be used to demonstrate the adequacy of the parking supply as a substitute for standard parking requirements.

C. *Paved off-street parking requirements*.

1. Paved off-street parking shall be provided according to the minimum requirements as specified below:

Required Parking Table

	R1, R-2 zones, RR, SR	R3, R5 zones	R4, UR zone	C1, C2, SC, UC zones	M1, M2 zones
Residential. (Alley loaded homes with less than 1,250 sq ft of total floor area (including unfinished) are only required 1 parking space per dwelling unit.)	2.0 per dwelling — 2.0 per unit in R3	1.5 per dwelling unit	1.5 per dwelling. For residential units without direct street frontage, an extra 0.20 spaces of off-street visitor parking per unit will be required within the overall development. Driveway spaces located directly behind garages or parking pads will not be counted towards this requirement.	1.0 per dwelling	—
Lodging	1.0 per bedroom	—	1.0 per bedroom	1.0 per bedroom	1.0 per bedroom
Office	3.0/1,000 sq. ft.	—	3.0/1,000 sq. ft.	3.0/1,000 sq. ft.	2.0/1,000 sq. ft.
Retail	—	—	3.0/1,000 sq. ft	3.0/1,000 sq. ft.	3.0/1,000 sq. ft.
Restaurant: sit down	—	—	1 per 4 seats or 1 per 100 s.f. of gross floor area	1 per 4 seats or 1 per 100 s.f. of gross floor area	1 per 4 seats or 1 per 100 s.f. of gross floor area
Restaurant: drive through. For food/drink establishments, a minimum of 12 stacking spaces will be required in the drive-thru. For all other drive-thru uses, a minimum of 7 stacking spaces will be required.	—	—	1 per 100 sq. ft., plus 3 stacking spaces for drive thru window	1 per 100 sq. ft.	1 per 100 sq. ft.
Industrial	—	—	—	1.0 space per 1,000 s.f. gross floor area	1.0 space per 1,000 s.f. gross floor area
Civic	To be determined on project basis				
Other	To be determined on project basis				

2. At least one Electric vehicle charging space is required to be installed with new development or redevelopment . These spaces count towards the total space requirement

3. All parking spaces served by an EV Charging Station and/or any parking space used to site EV Charging Equipment shall count as one standard space toward the total parking requirements. All van-accessible parking spaces designed to accommodate a person in a wheelchair and used as an EV Charging Station

and are not reserved only for use by persons with a disability, shall count as two standard spaces towards the total parking requirements.

4. For non-residential uses, the larger of either 10 spaces greater than the minimum required or 25% greater than the minimum required

5. All parking spaces served by an EV Charging Station and/or any parking space used to site EV Charging Equipment shall count as one standard space toward the total parking requirements. All van-accessible parking spaces designed to accommodate a person in a wheelchair and used as an EV Charging Station and are not reserved only for use by persons with a disability, shall count as two standard spaces towards the total parking requirements.

6. Off-street parking for commercial uses shall be sufficient to provide parking for employees of all proposed uses as well as long-term customer parking. Spaces reserved for employees shall be designated as such by means of striping and signage. Parking shall be located at the rear and sides of buildings to the greatest extent possible and screened from the view of streets as provided in this Section. Required parking in the commercial and mixed use zone districts can be met with on-street and shared parking.

   a. The location of required off-street parking facilities for other than residential uses shall be within 400 feet of the building they are intended to serve when measured from the nearest point of the building or structure.

7. Commercial uses either renovating or expanding existing properties fronting on Massachusetts Ave. between 3rd and 5th Streets, Mountain Ave. between 1st and 5th Streets or Welch Avenue between 1st and 5th Streets are exempt from the parking requirements of this Section.

8. Large retail centers are subject to the below minimum parking standards:

   a. Centers with 75,000-150,000 sq. ft: 1 space per 350 sq.ft.

   c. Centers with more than 150,000 sq. ft: 1 space per 400 sq.ft.

D. *Location of spaces for residential uses*.

1. Off-street parking facilities for residential uses shall be provided and located on the same lot as the building they are intended to serve.

2. Front or side — loading garages shall be set back at least 22 feet from the back of the sidewalk or property line, whichever is more restrictive. Required off-street parking spaces shall not encroach upon any sidewalk or into the public right-of-way.

E. For handicap parking spaces, the developer shall provide parking in accordance with the Americans with Disabilities Act.

1. When EV Charging Stations are provided on the subject lot, the same proportion of handicap parking spaces shall be provided as noted in Table 2.3, per the total number of parking spaces served by an EV Charging Station. For example, if between 1 and 25 parking spaces are served by an EV Charging Station, at least one of those spaces must be handicapped. Handicap spaces served by EV Charging Stations may or may not be reserved for use only by persons with a disability. All other provisions in this section related to the design of handicap parking spaces apply.

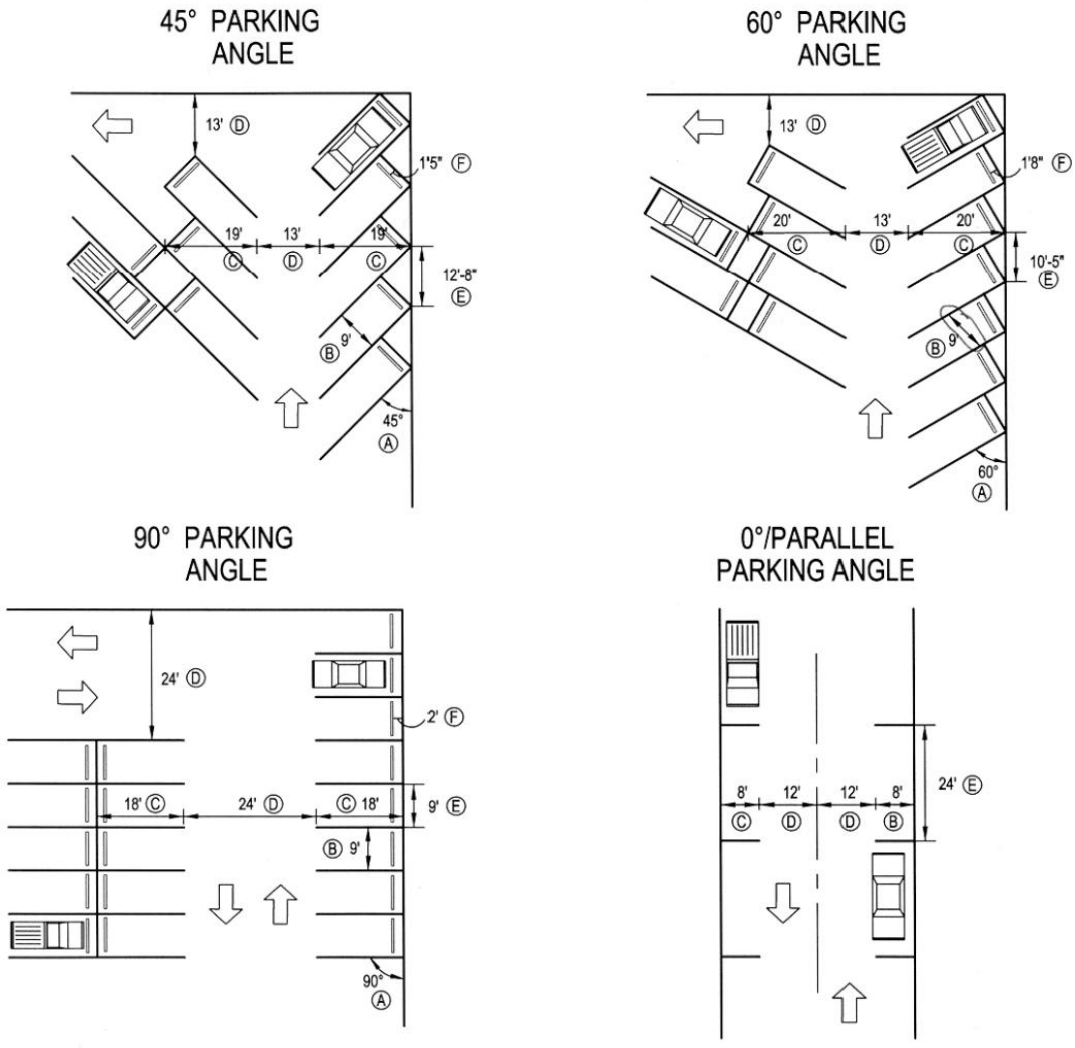
G. *Parking stall dimensions*. Parking stalls for automobiles shall meet the following standards. All dimensions represent the minimum requirement for any required parking space.

Table 2.4: Parking stall dimensions

Parking Stall Dimensions					
Parking Angle	Stall Width	Stall to Curb	Aisle Width	Curb Length	Over- hang
45°	9'	19'	13'	12' 8"	1' 5"
60°	9'	20'	13'	10' 5"	1' 8"

90°	9'	18'	24'	9'	2'
0°(parallel)	8', Except along local streets where seven feet is permitted.	8', Except along local streets where seven feet is permitted.	12'	24'	0'

Figure 2.10: Parking area dimensions



H. *Bicycle parking spaces*. Commercial, industrial, civic, employment, multi-family and recreational uses shall provide bicycle facilities to meet the following standards:

1. A minimum number of bicycle parking spaces shall be provided, equal in number to ten percent of the total number of automobile parking spaces provided by the development, but not less than one space. Multi-family or mixed-use developments will be required to have at least 50 percent of their bicycle parking spaces be enclosed.

2. For convenience and security, bicycle parking facilities shall be located near building entrances. Within downtown commercial areas, however, a grouping of spaces shall be provided as directed by the Town.

3. Bicycle parking facilities shall be designed to allow the bicycle frame and both wheels to be securely locked to a structure which is permanently attached to the pavement.

4. Bicycle parking facilities shall be located so as not to interfere with pedestrian traffic or access to buildings.

I. EV Charging

1. Parking spaces served by EV Charging Stations and/or Electric Vehicle Supply Equipment (EVSE) are required per the Town's Building Regulations - National Electrical Code, 2023 Edition or may also be developed voluntarily, per the use allowances in the Zoning Section of this Code and associated application review processes in this Code and definitions for Principal Use and Accessory Use EV Charging in Section 30-1-121. Principal Use EV Charging may be accompanied by other supportive uses, such as convenience retail, public restrooms, etc. All proposed EV Charging Stations that do not meet these definitions are allowed by-right and are not subject to land use permitting but do require applicable building and electrical permits.
2. When Accessory Use EV Charging is proposed on a subject lot within an existing designated parking area where no changes to the existing Principal Use(s) are proposed, the existing Principal Use(s) shall be exempt from any site improvements or other requirements to conform with applicable land use regulations as conditions of approval for the Accessory Use EV Charging permit.
3. Appropriate safety and access distances shall be provided for all EV Supportive Equipment (EVSE), per the National Fire Protection Association (NFPA) standards and the National Electric Safety Code (NESC), providing space free of obstruction between the equipment and any adjacent structure or landscaping.
4. Accessory Use EV Charging is subject to the standards found in the Design Section of this Chapter as well as the procedures found in the Subdivision and Land Use Section of this Chapter.

30-6-108 Sidewalks, walkways, trails, and bikeways

A. *Intent*. The intent of the standards for sidewalks, walkways and trails is to assure a safe, convenient, and attractive pedestrian/bicycle system that minimizes conflicts between vehicles, bicycles and pedestrians. For detailed cross-sections, refer to the latest Specifications and Standards engineering document. Adherence to the Town's master plan and regional master plans shall be made.

B. *Sidewalks and walkways*.

1. *Interconnected network*. A sidewalk network that interconnects all dwelling units with other dwelling units, non-residential uses, and common open space shall be provided throughout each development. Sidewalks and/or walkways shall be separate and distinct from motor vehicle circulation routes. The pedestrian circulation system shall include gathering/sitting areas and provide benches, landscaping and other street furniture where appropriate.

2. *Sidewalks required*. In all zone districts, except for the AG: Agricultural ~~or T: Transition districts~~, sidewalks are required along both sides of a street. In areas featuring a rural street cross-section, trails may replace sidewalks.

3. *Sidewalk width*. Sidewalks shall be a minimum of five feet wide when adjacent to local streets; a minimum of five feet wide along collector streets; and a minimum of eight feet wide along arterial streets. If a detached sidewalk is installed it must be at least four feet in width. Sidewalks adjacent to

storefronts in commercial areas shall be ten to 15 feet in width or consistent with the average sidewalk width on a block if building in an area with existing sidewalks.

4. *Sidewalk location*. Sidewalks shall be located within the right-of-way unless otherwise authorized by the Town.

5. *Sidewalk materials*. Sidewalks shall be constructed of concrete, concrete containing accents of brick, or some combination thereof that is compatible with the style, materials, colors, and details of the surrounding buildings. Concrete sidewalks four to six feet wide shall be a minimum of four inches thick and concrete sidewalks crossing driveways shall be a minimum of six inches thick. Asphalt shall not be used for sidewalks.

   Sidewalks must be constructed of approved materials of sufficient strength to support light maintenance vehicles. If used as a secondary emergency access, sidewalks must also be able to support the weight of fire apparatus.

6. *Sidewalk installation*. Sidewalks and related improvements shall be installed or constructed by the applicant, land owner or developer in accordance with plans and specifications approved by the Town and, after installation or construction; they shall be subject to inspection, approval and acceptance by the Town.

7. *Accessibility*. Sidewalks and walkways shall be accessible to disabled individuals as required by this Code and the Americans with Disabilities Act.

8. *Walkways*. Walkways are sidewalks within a park setting or connections through any subdivision that allow easier access between areas. Within a park setting a walkway shall be at least six feet in width. When cutting through a subdivision a walkway shall be at least six feet in width and located within dedicated open space of not less than 20 feet in width and shall be flanked with appropriate landscaping. Walkways along buildings and within parking lots shall be raised and curbed where suitable. A direct pedestrian connection to building entries, public space and parking areas shall be provided from public sidewalks. Walkways shall be constructed of the same materials as sidewalks; except that walkways internal to asphalt surfaced parking lots may be of asphalt construction. Walkways crossing driveways in parking lots shall be clearly delineated by a change in pavement color, texture, or paint striping.

9. *Lighting*. Where lighting is necessary, all sidewalks and other walkways shall have appropriate Dark Sky compliant lighting using poles and fixtures consistent with the overall design theme for the development.

30-6-109 Easement and utility standards

A. *Multiple installations within easements.* Easements shall be designed so as to provide efficient installation of utilities. Public utility installations shall be located as to permit multiple installations within the easements. The developer will establish final utility grades prior to utility installations.

B. *Underground utilities.* Telephone lines, electric lines, cable television lines and other like utility services shall be placed underground. The applicant or developer shall be responsible for complying with the requirements of this Section, and shall make the necessary arrangements including any construction or installation charges with each utility provider for the installation of such underground facilities. Transformers, switching boxes, meter cabinets, pedestals, ducts and other facilities necessarily appurtenant to such underground utilities shall be placed underground or on the surface but not on utility poles. Screening or fencing is required subject to approval of the Town. Electric transmission and distribution feeder lines and necessary appurtenances thereto may not be placed above ground unless they are carrying greater than 115 kV. Upon approval of the Town, such facilities shall be placed within easements or rights-of-way provided for particular facilities.

C. *Street lighting.* Street lighting shall be full cut-off and installed as provided in the Lighting Section of this Code and as specified in the Town of Berthoud Construction Specifications for Public Improvements. Lighting will be in compliance with Berthoud's Dark Sky standards. Minimum lighting requirements and spacing of light fixtures is per the applicable electric utility.

D. Utility Services. Utility services shall be located underground. Exceptions to the requirements of underground utilities are:

1. Major electric transmission lines responsible for transporting power through the area rather than to the area; or

2. Where the Community Development Director and/or Public Works Director determines that the underground utility location is not practical, above grade utilities shall be located behind structures in a utility "alley" easement approved by the applicable utility authority where practical.

30-6-110 Parks, trails and open space

A. *Intent.* To ensure that a comprehensive, integrated network of parks and open space is developed and preserved consistent with any adopted plans regarding parks, trails and open spaces as the Berthoud community grows. Parks, trails and open spaces on adjacent properties shall connect.

B. *Park standards and requirements.*

1. *Intent.* The Town of Berthoud reaffirms its belief that high quality useable parks and open spaces contribute to the overall life for Berthoud residents. The Town prioritizes diversity of park amenities throughout the community as development occurs.

2. *Park development requirements.*

a. Developed parks shall be required for a residential subdivision if the subdivision totals more than six acres or has more than 50 dwelling units. The amount of developed park required shall be calculated at a ratio of one acre of parkland per 100 dwelling units, and must satisfy the requirements of the Parks Standards and Requirements Section.

b. Park areas shall be surrounded by public right-of-way not by private lots, to the greatest extent feasible.

3. *Park types and requirements.*

a. *Pocket park.* A pocket park is a small outdoor recreational space intended to serve the immediate neighborhood. Pocket parks shall be a minimum of one-third acre in size and less than two acres. These spaces shall be accessible by walking and biking and located within a one-quarter mile radius of the intended users. These spaces do not typically require off-street parking. Pocket parks shall be owned and maintained by an HOA or Metro District and shall remain open to the public. No credit for Park Development impact fees shall be granted by the Town for the construction of pocket parks.

b. *Neighborhood park.* Neighborhood parks are the basic unit of the park system and serve as the recreational and social focus for the neighborhood. A neighborhood park shall be a minimum of two acres in size and less than five acres. Neighborhood parks are generally intended to serve a resident population living within a one-mile radius of the neighborhood park. Neighborhood parks should have high visibility to surrounding streets for public safety. Depending upon available on-street parking, neighborhood parks may require off-street parking spaces of seven off-street parking spaces, at least one of which shall be ADA accessible. Depending upon the

types of amenities included, and at the discretion of the Town, neighborhood parks may be owned and maintained by an HOA or Metro District or may be dedicated to the Town upon completion of construction and acceptance by the Town. In all instances, neighborhood parks shall remain open to the public. Credit for park development impact fees may be granted by the Town up to 25 percent of the impact fee if the Town accepts dedication of the park, but in no case shall credit total more than the cost to construct the park.

c. *Community park.* Community parks are large recreation facilities serving a population within a several miles radius. A community park shall be a minimum of five-acres and less than 20-acres. Community parks are intended to provide recreational opportunities of community interest such as sport fields, courts, or other unique recreation amenities. Locations of community parks must be approved by the Town. Due to their size, community parks may not have high visibility to surrounding streets and should be designed with public safety in mind. This may be accomplished with access control, video surveillance, enhanced lighting, or other creative design ideas to increase public safety. Off-street parking is required for all community parks and requirements will be established by the Town based upon the amenities provided. All community parks shall be designed in accordance with all applicable Town standards and dedicated to the Town upon completion of construction and acceptance by the Town. Credit for park development impact fees shall be granted by the Town up to 100 percent of the impact fee, totaling no more than the cost to construct the park.

d. *Regional park.* Regional parks are intended to serve the entire Town and surrounding communities. They are not typically constructed by developers but in rare instances may be included as part of a large master planned community. Regional parks are greater than 20-acres in size and must be planned, approved, and accepted by the Town.

4. *Park development required elements.* All proposed parks must have the following elements:

Required infrastructure (all parks)	• Electricity • Irrigation • Trash receptacles (min. two per acre) • Dog waste stations (min. two per acre) • Water service • Bike racks • Landscaping • Public art • Sign with park name and address

Pocket parks (1/3-2 acres) must include	All required infrastructure items, and at least 3 of the following elements: Group picnic shelter (min 500 sf with three tables) Two individual shelters with one picnic table each 15,000 sf minimum turf play area (one element per 15,000 sf) 10,000 sf minimum natural area (one element per 10,000 sf) Concrete loop walk (minimum length 2000 linear feet, minimum width 6') And at least 3 of the following pocket park elements (each item is counted as one element and additional instances shall not be counted as additional elements): • Spray pad or splash area • Racquet sports court (tennis, handball, pickleball, etc.) • Water feature (A passive water-based amenity that provides a visual focal point such as fountains, ponds, or waterfalls) • Trail head with a minimum of four parking spaces • Interactive Public Art • Permanent picnic tables with Chess/Checkers Board[1] • Lawn games area (shuffleboard, bocce ball, horseshoe pits, etc.)[1] • Fitness course • Interpretive/educational signage, with guidance and approval from Town on content • Commercial-grade playground or nature-inspired/nature-based playground • Sensory play area • Rain garden • Demonstration garden • Free book exchange box • BBQ grills and picnic tables (min. one per every two tables) • Benches (min. two per half-acre) • Drinking fountains • Additional trees planted at a ratio of 20 trees/acre (counted as one element) • Other components chosen by the applicant and approved by the Town
Neighborhood parks (2-5 acres) must include	All required infrastructure items and 6 total pocket park elements, and 3 of the following neighborhood park elements: • Community garden with management plan • Sports facility (one full basketball court, volleyball court, soccer field, etc.) • Fully fenced off-leash dog area (minimum size one acre) • Practice backstop (with turf size adequate for min. 200 ft. foul lines. May be on required turf area) • Restrooms with plumbing (counts as three items) • Incorporation of historic elements (architectural salvage, structures, materials, etc.) • Rock wall/rock climbing structure • Shade structures • EV charging station
Community parks (5-20 acres) must include;	All required infrastructure items, a permanent restroom building, satisfaction of-pocket park and neighborhood park requirements, and an additional 3 elements from the pocket park elements, neighborhood park elements, and/or below: • BMX or mountain bike skills course • Disc golf course (at least 6 holes) • Boating facilities • Fishing facilities • Outdoor pool • Skate park • Community building

	• Other components chosen by the applicant and approved by the Town
Regional parks (20 acres or greater) must include;	All required infrastructure items, a permanent restroom building, the following elements: • Three group picnic shelters (min 500 sf with three tables) • Five individual shelters with one picnic table each • 15,000 sf minimum turf play area • Natural area to include waterwise native plant species • Concrete loop walk (minimum 6' wide) And at least 10 of the following elements (each item is counted as one element and additional instances shall not be counted as additional elements):: • Sports facility (each court/field may be counted as a separate item: full basketball court, volleyball court, soccer field, etc.) • Spray pad or splash area • Racquet sports court (Each may be counted as a separate item: tennis, handball, pickleball, etc.) • Disc golf course (9 or 18 holes) • Off-leash dog area - fenced (min size - one acre with separated fenced areas for different uses and dog sizes) • Practice backstop (with turf size adequate for min. 200 ft. foul lines, May be on required turf area) • Water feature (A passive water-based amenity that provides a visual focal point such as fountains, ponds, or waterfalls) • Trail head with a minimum of ten parking spaces, including at least one EV charging space • Interactive Public Art • Interpretive/educational signage, with guidance and approval from Town on content • Lawn games area (shuffleboard, bocce ball, horseshoe pits, etc.)[1] • Fitness course • Permanent picnic tables with Chess/Checkers Board[1] • Commercial-Grade Playground or nature-inspired/nature-based playground • Community garden with management plan • Sensory play area • Rain garden and creative drainage paths • Demonstration garden • Free book exchange box • BMX or mountain bike skills course • Boating facilities • Fishing facilities • Outdoor pool • Skate park • Community building • Incorporation of historic elements (architectural salvage, structures, materials, etc.) • Rock wall/rock climbing structure • Shade structures • BBQ grills and picnic tables (min. one per every two tables) • Benches (min. two per half-acre) • Drinking fountains (min. one per every four acres) • EV charging station • Other components chosen by the applicant and approved by the Town
`1	The necessary equipment for these features must be provided and made available to the public.

C. *General provisions for Parks and Open Spaces.*

1. *Public access.* Areas designated as public open space shall be both visibly and physically accessible to the community. Adequate public access shall be provided to all public open space, natural and developed, directly from the public street and trail system. Pocket parks and plazas shall be integrated into the neighborhood design and be accessible to pedestrians and bicyclists.

3. *Ownership and maintenance.* Ownership and maintenance shall be determined by the Town on a case by case basis through the review process.

   a. Generally, the Town shall own and maintain community parks, regional parks and public trails. Town ownership and maintenance of neighborhood parks will be decided on a case-by-case basis.

   b. Pocket parks, plazas, outlots and private recreational facilities shall be owned and maintained by a homeowners' association, metro district or the landowner.

   c. Environmentally sensitive, archaeological and historic resources may be dedicated to and maintained by the Town at Town's discretion.

   d. Stormwater detention and retention areas that function as open space shall be owned and maintained by a homeowners' association, metro district, or the landowner, unless otherwise approved by the Town.

   e. Areas designated as open space shall be maintained according the designated function of the area. Applicants shall develop a management plan which addresses: irrigation, revegetation, erosion control, and weed management. If the area is to remain in private ownership, a mechanism which will assure maintenance will be funded must be in place at the time of final plat.

D. *Open space requirements.*

1. Open space is defined as:

   a. Areas designated for preservation and protection of environmental resources including floodplains, natural drainage ways, and wetland areas;

   b. Storm drainage facilities

   c. Areas designated for agricultural activities or preservation;

   d. Areas of archeological and historic significance; and

   e. Areas of critical or important habitat as defined by the Colorado Division of Wildlife.

   f. Common landscaped areas incorporated into properties zoned R-2, R-3, R-4, C-1, C-2.

2. Areas not counted as Open space:

   a. Required Park improvements shall not be counted towards the ten percent open space requirement.

   b. Required setback areas around oil and gas production facilities;

   c. Disconnected remnants of land created by division of sites into lots or parcels that do not qualify as open space, unless approved by the Town;

   d. Private yards of any homes or tree lawns if present in a subdivision;

   e. Required parking lot landscaping associated with all uses, except parking specifically designated for access to open space areas and within commercial/industrial projects.

3. *Open space protection.* Areas designated as open space shall be protected by conveyance to the Town as provided on the plat and by this Chapter, deed restriction or other appropriate method to ensure

that they remain open and cannot be subdivided or developed in the future without approval of the Town.

4. Open space requirement. Open space shall be required for ten percent of the total area of any project as approved in a Neighborhood Master Plan, and each filing or plat must also possess at least ten percent open space. Commercial use and industrial use only properties shall not be required to satisfy the open space requirements.

5. Required open space elements. Developments will be required to satisfy the following functional open space elements as per the following acreage requirements:

    a. Developments consisting of five acres to 50 acres in total size, shall be required to satisfy two elements;

    b. Developments of 50 acres to 200 acres shall be required to satisfy three functional open space elements, and;

    c. Developments of 200 acres or more, shall be required to satisfy four (4) functional open space elements.

6. Functional open space elements. The following open space elements shall be considered when planning adherence to this requirement. Each element listed below counts as one regardless of quantity.

    a. Useable detention areas : The area around a detention pond or water quality feature that is a minimum of one continuous acre in size, and includes the required park infrastructure listed above with irrigated vegetation (turf, trees, shrubs) and other amenities such as benches or picnic tables, and a continuous loop trail to be perpetually maintained by the development, shall count as one element. .

    b. Additional pocket park: An additional pocket park(s) from that which is required under the park standards found in this development code, ranging from a third of an acre to two acres in gross size which meet the park standards herein.

    c. Agricultural preservation : A farm placed in a permanent conservation easement of at least ten continuous acres in size, with proof of a permanent water source .

    d. Habitat Area: Preservation of a natural habitat area, of at least five acres in size. Existing Habitat areas to be considered, must provide an ecological study, verifying that it is a natural habitat. All habitat areas shall provide a 150-foot setback / buffer from any development. Habitat areas shall not require water dedication.

    e. Greenway: A permanent greenway 40 continuous feet in width, and at least a third of an acre in size, with an eight-foot crusher refine trail or eight-foot concrete trail. All improved greenway areas shall have water dedication calculated in accordance with a hydrozone analysis and the water dedication section of this Chapter.

    f. Green Area: Informal gathering area with irrigated turf, at least 50 continuous feet wide, and half an acre in size for unstructured recreational activities . Green areas shall include an amphitheater, trees along the perimeter, pollinator gardens or community gardens. Green areas shall be flat, unless otherwise approved by the Town. All improved green areas shall have water dedication calculated in accordance with a hydrozone analysis and the water dedication section of this Chapter.

    g. Trailhead : A trailhead built with five permanent parking spaces (one handicap), a bench, and garbage receptacles. The trailhead must connect to an existing or proposed trail network. No water dedication shall be required for trailhead areas without public amenities requiring water provision.

h. Plaza for Mixed Use Developments (for Suburban and Urban zoning, C-1, C-2, R-3, and R-4) : Open spaces available for civic purposes and commercial activities intended to add vibrance to the downtown or central areas of neighborhoods within mixed use developments. Plaza's must be at least 2,000 square feet in size, and 50 feet wide . Trees and other landscaping will complement a mostly hardscape development pattern.

i. Community lawn: Green Irrigated areas of over one continuous acre in size, and 75 feet in width, in the center of the development, in which building frontages orient to the lawn, and trees are planted within the perimeter. Building frontages must be rear or side loaded to receive credit. Water dedication for all community lawn areas (including trees and shrub areas) will be established in accordance with a hydrozone analysis and the water dedication section of this Chapter.

j. Buffer areas: Continuous 60-foot wide buffer areas along the entire perimeter of the development. These buffer areas shall include fencing that satisfies the Subdivision Identity Standards, and a landscaped berm inclusive of pollinator plant selection. Buffer areas shall be irrigated and the water requirement shall be calculated in accordance with a hydrozone analysis and the water dedication section of this Chapter

k. Preservation of historically imporant or landmark properties and/or sites: The preservation of any landmark building and or site, or those sites and structures with historical significance to the Town's development, under the Historic Resources requirement section found in this Code.

30-6-111 Contribution for public school sites

To meet the increased need for schools as a result of increased housing, the applicant shall dedicate land areas or sites suitable for school purposes, or provide cash-in-lieu of land in the amount specified for every dwelling unit which may be constructed within the subdivision to serve the elementary, middle, and high school public school needs of the residents of such dwelling units. The Town may elect that public school sites may be transferred and conveyed to the Town or school district pursuant to stipulations in intergovernmental agreements between the Town and respective school district.

30-6-112 Public sites and dedication requirements

The developer of residential projects shall dedicate public sites for open space, parks, schools, or other civic purposes in accordance with the requirements of this Section to serve the proposed subdivision and future residents thereof. Acceptance of all land proposed for dedication is at the discretion of the Town.

1. *Land dedication*. Payments and dedications made under the requirements of this Section shall be made payable or dedicated to the Town. Dedication of such sites and land areas to the Town shall be free and clear of all liens and encumbrances. The applicant shall provide for the installation of the streets adjacent to the park and school sites, the installation of water, sewer and other public utilities to the park and school sites, and overlot grading of the park and school sites.

2. *Fee-in-lieu of dedication*. If there is not sufficient property on the plat to provide land for the entire school or park facility required, with the approval of the Town, the applicant may, in lieu of dedication of all or part of the land requirements, pay fees in lieu of the equivalent land areas which would have been dedicated to public facilities. Fees are to be calculated in the following manner:

    a. Fees shall be calculated based on the full market value of the land assuming the plat has been approved and proper zoning exists.

    b. Full market value shall be determined by mutual agreement between the applicant and the Town. In the event of inability of any of the above parties to agree on the value of the subject land, the applicant shall submit to the Town a written appraisal from a qualified appraiser meeting the value requirements set forth herein. Said appraisal shall be made by an individual or

entity that does not have a financial interest in the subdivision and shall be a member of the Appraisal Institute (MAI), a member of the Society of Real Estate Appraisers (SRA), or such other qualified person mutually agreeable to the Town Administrator and the applicant. The applicant shall pay the cost of said appraisal.

c. Such appraisal may be submitted during the review period of the final plat. If the Town believes that the appraised value is not accurate, it may obtain its own appraisal from a qualified appraiser at the applicant's cost, or determine the fair market value by such procedure as the Town deems appropriate.

d. All fees-in-lieu of dedications are to be paid at issuance of a Building Permit unless otherwise agreed to by the Town.

e. For subdivisions that are platted in phases, the above calculations can be made on a phase-by-phase basis through methods to be devised by the Town realizing that by virtue of developing one phase, the value of the undeveloped adjacent phase will increase. The applicant has the option of paying the fees for all phases upon the due date of fees for the first phase.

30-6-113 Landscape design

A. *Intent.* To preserve Town's special character and integrate new development by promoting quality landscape design. The standards found in the Town of Berthoud Landscape Design Guidelines shall be incorporated into landscape plans, and also reflect the following:

1. Reinforces the identity and creates a sense of place for each neighborhood
2. Provides tree-lined streets with canopy tree species in urban areas.
3. Anchors new buildings within the landscape.
4. Provides tree canopies within paved areas.
5. Preserve existing trees, utilize water conservation techniques, and support the planting of native species (when appropriate), to enhance the natural habitat.
6. Enhances natural features, and drainage ways.
7. Enhance functional open space through the creation of natural areas appropriate to the location and purpose of the open space within the development.
8. Maximizes connections within development sites to natural areas and to landscaped areas in adjacent developments.
9. Reinforces neighborhood identity, creates a sense of place, and creates consistency between proposed developments and the surrounding areas.
10. Incorporate the elements of gateway, path and destination into the design of landscapes.

a. Gateways are entries that provide transitions from one space to another.

b. Pathways are routes that lead to a destination.

c. Destinations are focal points that can include anything from a garden bench at the end of a path to a civic building at the end of a street.

B. *General provisions.* All land development applications except for building permits for individual attached or detached single-family residences shall be accompanied by an appropriate landscape plan. New landscaping within the community shall comply with the following regulations as well as those in the most recent version of the Town's Landscape Design Guidelines.

1. *Site landscape design regulations.* Landscape improvements shall be an integral part of the overall site design for all residential common areas, multi-family developments, and any non-residential development/property. Landscape improvements shall be designed to complement and enhance the character of the existing neighborhood and shall follow these guidelines.

2. Any development or platted final plat with five or more units shall retain a licensed landscape architect to prepare landscape plans for front yards. To the greatest extent possible, these landscape plans should vary in design between adjoining lots. See the Landscape Design Guidliens for all landscape requirements.

    a. Front yard landscaping should visually integrate the adjacent natural landscape where applicable.

        i. Trees must be planted ten feet away from utility lines.

        ii. Each front yard should have at least one ornamental tree. Front yard trees should be of at least one and one-half-inch caliper in size.

3. *Environmental considerations.* Landscapes shall use the following water conserving principles:

    a. Well-planned planting schemes;

    b. Appropriate turf selection to minimize water consumption and the use of bluegrass;

        1. Irrigated turf grass with a high water requirement may only be planted according to planned use, only in areas or spaces used for recreation or for civic or community purposes. Such purposes may include playgrounds, sports fields or other athletics programming, picnic grounds, amphitheaters, portions of parks, and playing areas of golf courses. Such purposes do not include, and irrigated turf grass with a high water requirement must not be planted in, parking lots or medians. Irrigated turf grass with a high water requirement may only be planted for recreation, civic or community purposes. Irrigated turf grass with a high water requirement refers to high- or moderate-hydrozone sod forming grasses including species such as Poa pratensis (Kentucky bluegrass), and turf-type tall fescue (Festuca arundinacea) and their varieties and cultivars.

        2. Irrigated turf grass species with a low water requirement may be located on a site as appropriate for the species and planned activity. Well-maintained irrigated turf grass with a low or very-low water requirement and that also does not meet the definition of “turf” set forth in C.R.S 37-60-135(2)(i) and well-maintained regionally adapted or native grass species are not subject to the irrigated turf limits.

    c. Use of mulch to maintain soil moisture and reduce evaporation;

    d. Placement of plant materials according to their microclimatic needs and water requirements;

    e. Improve the soil with organic matter if needed;

    f. Efficient irrigation systems that reduce spray over and conserves water;

    g. Proper maintenance and irrigation schedules; and

    h. Group plantings of similar water requirements together.

    i. All landscapes shall strive to maximize the use of native species as specified in the Town’s Landscape Design Guidelines. Where native material is not appropriate for the intended use or appearance, plant species that are regionally adapted and noninvasive may be used.

    j. Landscapes shall consist of a variety of species to enhance biodiversity.

    k. Buildings and parking areas shall be located to preserve and promote the health of existing trees, environmental resources and natural drainage ways. No healthy tree shall be removed without good cause. If a healthy tree is removed with cause, it must be replaced with comparable trees

per a tree mitigation plan. This requirement is not intended to prevent the removal of unhealthy trees in conjunction with site development.

l. Where possible, trees shall be located to provide summer shade and limit winter shade on walks and streets.

m. A combination of plantings, berms, walls and fences shall be used as appropriate to buffer sensitive habitat.

n. Weed control will be practiced on all areas disturbed by construction and those areas shall be reseeded to prevent erosion. Native, noninvasive grasses shall be used for revegetation where practical. Weed control is the responsibility of the landowner on all reseeded areas and preservation areas. Weed control shall be a continual responsibility of the owner during all phases of land clearing and construction.

o. Native grasses shall not be planted immediately adjacent to fences, buildings, sidewalks, or concreate trails. A minimum landscaped buffer of 10 feet shall exist between areas of native grass areas and fences, buildings, sidewalks, or concrete trails.

4. *Plant material standards.*

a. The minimum planting sizes on all required landscaping shall be two inch caliper deciduous trees, one and one-half inch caliper ornamental trees, six foot tall evergreen trees and five gallon shrubs.

b. Plants shall be healthy, well-branched vigorous stock with a growth habit normal to the species and variety and free of diseases, insects and injuries. A variety of plant species should be installed to prevent the spread of disease.

c. All plants shall conform to standards for measurements, grading, branching, quality, ball and burlapping as stated in the current edition of the American Standard for Nursery Stock, American Association of Nurserymen, Inc., (AAN-ASNS) and the Colorado Nursery Act of 1965 (CNA).

d. Plants shall be no more than 24 inches in height at plant maturity when located in a sight distance triangle.

5. *Irrigation.* This Code mandates landscaping and installation of permanent automatic underground sprinkler systems containing rain/freeze sensors and WPA Watersense weather-based (ET) irrigation controllers in all parks and open spaces within new developments, except for (i) Natural Areas undisturbed by development, (ii) Open Water, and (iii) all impervious surfaces. All irrigated landscaping shall be established and maintained in a live and weed-free condition. Irrigation shall be appropriate to the type and scope of the improvements. Refer to the Town's Irrigation Plan guideline.

a. Water Dedication Requirements. Water dedication for irrigation purposes shall be in accordance with the Imposition of Development Fees Section of this Development Code.

b. Criteria and process for determining Natural Areas and Open Water. Town staff in its discretion, with final approval of the Town Administrator, may determine that areas qualify as Natural Areas or Open Water in accordance with the definitions found in the Definitions and in the Imposition of Development Impact Fees Sections of this Chapter.

c. Use of non-treated water for irrigation is encouraged if a permanent, suitable supply is available. Gravity flow irrigation using irrigation ditches for areas planted with native seed may be permitted as an alternative to installing permanent automatic underground sprinklers where deemed acceptable and appropriate by the Town staff in its discretion, with final approval by the Town Administrator. Areas planted with native seed are to be irrigated until the area is well established.

d. Sleeving for the future installation of irrigation lines shall be provided under walkways and paved areas where irrigation may be installed in order to prevent or minimize damage and replacement to paved areas.

e. Irrigation systems shall be drip irrigation where possible in planting beds and for shrubs, trees, etc. All irrigation systems shall be designed to prevent overspray and runoff onto paved or other non-landscaped areas.

f. All automatic irrigation systems must be installed with moisture sensors.

6. *Guarantee of installation.* Required landscape improvements shall be installed prior to issuance of a Certificate of Occupancy for all structures. If weather conditions prevent installation, the developer, builder or applicant shall post a financial guarantee for the improvements. This guarantee shall be released by the Town upon completion of the installation of the landscaping and expiration of any warranty period.

7. *Maintenance, removal, and replacement.* All property owners/occupants, Homeowner's Associations and Metro Districts shall be responsible for maintenance, removal and replacement of trees and landscaping within the portion of the public right-of-way between the back of the curb or street pavement and the adjacent property as defined in the approved land use application in perpetuity. All property owners/occupants of mixed use, commercial or industrial property with an approved Final Development Plan or Site Plan are responsible for the maintenance and replacement of landscaping as shown on that approved plan.

a. Seventy-five percent of all landscape areas shall be covered with living ground cover. The recommended ground cover should be attained within three years of the date of planting. The use of non-living ground cover, such as rocks, gravel and bark, should be used sparingly; non-living ground cover is generally most suitable as accent treatment.

b. Notwithstanding any other provision in this code, any street tree that is diseased, is dying or has died shall be removed from the public rights-of-way in consultation with the Town Forester and the Street Tree Work Permit provisions of this Code. The Tree shall be replaced by the adjacent homeowner in consultation with the Town Forester within the same growing season of removal, as practical due to weather.

8. *Weed control.* Weed control shall be a continual responsibility of the owner , developer, Homeowners Association or Metro District from site construction and grading to occupation of the business or residence.

a. Every effort shall be made to prevent the spread of noxious weeds.

C. *Landscaping design standards.*

1. *Landscaping in common open space areas.* Common open space areas are lands meant to be enjoyed by the general population, includes lands reserved for pocket parks and along trails. Landscaping shall be appropriate to the use and function of the area and include trees, shrubs, groundcover, irrigation and paving. Native grass is appropriate for trail corridors while Kentucky bluegrass is appropriate for more active park areas and some open spaces.

a. A mechanism for long-term maintenance of common open space and arterial and collector street right-of-way landscaping is required, inclusive of the long-term viability and efficiency of the irrigation system. This may take the form of an approved maintenance plan by the developer, a Homeowners' Association or Metro District.

2. *Tree-lined streets.* The Town of Berthoud has a long, rich heritage of tree-lined streets. Today street trees and their conditions are a concern to those involved in urban forestry and the Town has the authority and obligation to assure that vegetation planted on public rights-of-way meets certain standards and is maintained, as approved in perpetuity. Tree plantings should be made with the same methodical planning that is used when making substantial financial investments. To comply with the

Streets and Alleys Section of the Design Guidelines Section of this Code there are three options to achieve this requirement:

a. *Tree strips with detached sidewalks:*

   i. Tree strips are recommended in all developments.

   ii. Tree strips along Local streets shall be a minimum of six feet in width to ensure adequate room for root growth. Tree strips along Collector or Arterial streets shall be a minimum of ten feet in width.

   iii. Trees shall be aligned in straight rows, located in the middle of the tree strip , and spaced between thirty feet and forty feet (as appropriate given the species) on center in order to allow for mature spread. If two or more consecutive residential lots along a street each measure between 40 and 60 feet in street frontage width, one tree per lot may be substituted for the 30-foot to 40-foot spacing requirement. Such street trees shall be placed at least five feet away from the edges of driveways and alleys, and 40 feet away from any streetlight and to the extent reasonably feasible, be positioned at evenly spaced intervals.

b. *No tree strips , attached sidewalks:*

   i. In limited cases attached sidewalks will be allowed.

   ii. Trees installed along streets without a tree strip shall include a mix of species, be generally aligned along the street frontage and may be placed outside of the public right-of-way.

   iii. Trees shall be irrigated from the adjacent private property owner.

   iv. Trees installed along streets that will be widened in the future shall take into account plans for future widening of streets so that established trees will not be disturbed during future construction.

   v. Street trees along rural streets where there is no sidewalk may be planted to create irregular clusters to reinforce the design and character of the project and frame views. Downtown streets — The properties generally located within the boundary of Massachusetts Avenue, Welch Ave, 1st Street, and LCR 17 are encouraged to provide decorative hardscaping, window boxes, planters, tree boxes, benches and street art, in order to attract pedestrian activity. Trees planted within paved environments shall have a minimum four-foot wide square tree well with grate.

c. *General regulations for trees to be planted on public right-of-way:*

   i. All newly-planted street trees shall be planted midway between the sidewalk and the curb. Trees shall be spaced to allow for safe, healthy, attractive growth.

   ii. No trees will be planted closer than five feet to an driveway or alley, nor shall it be planted in such a manner that eventual growth cannot be reasonably maintained to avert interference with, or obstruction of, any improvements installed for the public benefit such as traffic and street signs and lights, fire hydrants, overhead utility wires, street lights, utility poles, etc.

   iii. At edges of streets where a space of less than five feet in width exists between the curb and the abutting private property line, no trees or woody plants shall be planted on the public area so involved.

   iv. Where an attached sidewalk has been installed, no tree plantings are to be made closer than five feet from the edge of any concrete installation.

   v. Trees are not to be planted within ten feet of either side of water, sewer, or storm drain main lines or within five feet of either side of water or sewer service lines.

vi. No more than six of the same plant genus may be used consecutively in a row-type planting.

3. *Minimum species diversity.* To prevent uniform insect or disease susceptibility and eventual uniform senescence on a development site or in the adjacent area or the district, species diversity is required and extensive monocultures are prohibited. The following minimum requirements shall apply to any development plan.

Number of trees on site	Maximum percentage of any one species
10—19	50%
20—39	33%
40—59	20% species; 30% genus; 40% family
60 or more	15% species; 20% genus; 30% family

4. *Tree species and minimum sizes.* The Applicant shall provide a proposed list of trees from the Landscape Design Guidelines, to be reviewed by the Town Forester and Community Development Department which shall be acceptable to satisfy the requirements for landscape plans, including approved canopy shade trees that may be used as street trees. The following minimum sizes shall be required except as provided in the section below regarding trees permitted witnin rights0of-way below.

Type	Minimum Size
Canopy Shade Tree	2.0" caliper balled and burlapped or equivalent
Evergreen Tree	6.0' height balled and burlapped or equivalent
Ornamental Tree	1.5" caliper balled and burlapped or equivalent
Shrubs	5 gallon or adequate size consistent with design intent
Canopy Shade Tree as a street tree on a Residential Local Street Only	1.5" caliper container or equivalent

i. Any tree plantings that are in addition to those that are made as part of the approved landscape plan are exempt from the foregoing size requirements.

ii. Ornamental trees shall be planted in substitution for the canopy shade trees required in where overhead lines and fixtures prevent normal growth and maturity. Ornamental trees shall be placed at least 15 feet away from any streetlight.

iii. A permit issued by the Town Forester, will be required prior to the planting of any Street Tree (or tree on public land). Any violations will follow the provisions found in the Enforcement Section of this Chapter, and may result in the Town withholding permits and Certificates of Occupancy.

iv. The caliper shall be measured six inches above the tree-line.

5. *Trees permitted within rights-of-ways.*

a. Refer to the Town of Berthoud Landscape Design Guidelines for the most current list of tree species allowed on public lands or within the public right-of-way (seven feet in width or larger).

b. *Trees in public lands:* Refer to the Town of Berthoud Landscape Design Guidelines for the most current list of tree species permitted to be planted within parks, common areas, open spaces, and other public lands.

c. Refer to the Town of Berthoud Landscape Design Guidelines for the most current list of prohibited tree species within the Town of Berthoud right of way or on public lands.

D. *Business/commercial and industrial development shall meet the following standards in addition to those within the Town of Berthoud Landscape Guidelines.*

1. *New buildings and paved areas.* Provide trees, shrubs and groundcover plantings along front and sides of new buildings. The size and intensity of plantings shall be appropriate to the building or structure.

2. Integrate adjacent land uses of different intensities through a combination of berming, plantings and fencing. Use opaque screening only when necessary to mitigate the impact of noise, light, unattractive aesthetics and traffic. A fence shall not be the only screening material used.

3. Use landscaping to provide a transition from developed, managed landscape to more natural areas and vegetation.

4. Provide a tree canopy by installing shade trees within and adjacent to paved areas.

E. Residential R-3, R-4 and Commercial and Industrial zone districts shall include landscaping standards to meet the Town of Berthoud landscape Guidelines. Landscape improvements shall be designed to enhance the overall appearance of the development and to integrate the project with adjacent land uses and into the surrounding neighborhood

1. The developer or assigns shall provide:

i. A minimum of 15 percent of the site (gross) shall be landscaped area.

ii. *Site trees* — plant a minimum of one tree per 1,000 square feet of landscaped area, distributed on the site, exclusive of right-of-way landscaping.

iii. *Shrubs* — plant a minimum of one shrub per 150 square feet of landscaped area, exclusive of right-of-way landscaping. Group shrubs and distribute throughout the site. Trees may be substituted for up to one-half of the required shrubs at the rate of one tree for six shrubs.

iv. *Groundcover* — establish irrigated grass turf maintained to appropriate standards for active recreation in areas that will function for active recreation. Where appropriate, use native grass for areas that will not function as active recreation areas. There shall be a minimum of 75 percent live materials between the building and the street unless otherwise approved by the Town.

v. *Landscape setback to parking lots* — 15 feet from streets to provide a buffer between the street and parking areas.

vi. *Screen loading areas* — Loading areas (including vehicles being loaded), service and storage areas visible from the public right-of-way or adjacent property must be screened from view with an opaque screen that is an integral part of the building architecture, or by landscaping. Chain link fencing with or without slats, tires, or used building materials is not acceptable as screening material.

1. Utility Boxes, loading docks, outside trash receptacles and dumpsters, storage areas, and any other outdoor storage areas shall be screened in the following manner: Whenever plants are used as a screen the plants should be coniferous. They should provide an opaque screen within three years of the time they are planted.

2. Utility boxes, including, but not limited to, electric transformers, switch gear boxes, and telephone pedestals, and boxes should be screened on all sides not used for service access.

3. The materials and colors of the screen should blend with the site and the surroundings.

4. Trash enclosures should be placed around dumpsters and any other proposed receptacles of trash. The dumpster should be screened entirely from view. The enclosure shall prevent trash from being scattered by wind or animals. The dumpster should be placed on a concrete pad, enclosed by an opaque wall at least six feet in height, with opaque gates. The enclosure should be sturdy and built quality wood and or/masonry materials. The trash enclosures should be sited so the garbage truck has convenient access to the enclosure and has room to maneuver without backing onto a public right-of-way.

2. The property owner or occupant shall be responsible for landscaping located within adjacent road right-of-way and tree strips in accordance with Town regulations, which includes the maintenance, removal, and replacement of trees, shrubs, and groundcover.

3. *Parking lot landscaping standards shall meet the following standards in addition to those within the Town of Berthoud Landscape Guidelines.*

i. The developer or assigns shall provide:

1. At least five percent of all parking lot are shall be landscaped (this requirement is in addition to the overall 15 percent landscaping requirement for the site. Parking lot landscaping is intended break up large expanses of pavement, create shade, buffer views of parking lots from adjacent streets and development and enhance the overall appearance of each project. All parking lots with ten spaces or more shall be subject to these requirements.

2.. *Site trees* — a minimum of one tree per five parking spaces. Group trees together in islands which are a minimum of nine feet wide. Use the landscaping to break up large expanses of pavement and to create a tree canopy for summer shade.

3. *Shrubs* — a minimum of one shrub per 100 square feet of landscaped area. Group plantings in landscape islands.

4. *Groundcover* — Irrigated turf grass with a high water requirement shall not be used in parking lot landscaping per C.R.S 37-60-135(2)(i).

5.. *Landscape setback to parking lots* — 15 feet from all arterials, collectors, and other streets. The purpose of the setback is to provide a buffer between the street and parking areas and to screen the parking from the street.

6. *Provide a mechanism for long-term maintenance of landscaping* — all landscaping within and adjacent to parking lots shall be owned and maintained by the landowner.

7. *Screening:* whenever there are more than three parking spaces on the property, the parking lot should be screened for at least two-thirds of the length of the parking lot, and shall satisfy the following standards:

a. Berms, walls, fences, plants, planters or similar means should be used to create the parking lot screen. Whenever structures such as walls or fences are used to create a screen, plants should be located on the sides of the structure which can be seen from surrounding streets, walks, parks, trails and other properties which are used by the public.

b. The screen around the parking area should be at least three feet higher than the surface area of the parking lot. Whenever plants are used to create a screen, the plants should create a three-foot screen within three years from the time planted.

8. *Landscape islands:* Two feet at the end of each landscape island should remain unplanted, as the end points of islands are often run over by cars. The use of cobbles, patterned concrete, or brick pavers should be considered.

9. Landscape areas in parking lots shall be no smaller than 80 square feet each, and shall contain at least one tree and five shrubs for each island. Islands larger than 80 square feet shall contain one additional shrub for each additional 20 square feet of area, and one additional tree for each additional 200 square feet of area.

10. Pedestrian and/or vehicular access ways should be extended to the property line in order to interconnect with other adjacent commercial/industrial parking lots, sidewalks, and/or trails, with landscaping to enhance such connections.

4. Storm drainage facilities as public open space or park lands and shall follow the Town of Berthoud Landscape Design Guidelines. For drainage facilities proposed and accepted as open space or park lands the following requirements apply.

    a. If a proposal is made to dedicate a Detention basin or Retention basin to the Town, the Town shall determine if it serves the public interest. Public interest shall be based on ease of maintenance, potential use of the area for open space or recreation uses by the public, whether the area would complement the Town's park or greenway system, and/or whether the applicant shall provide for ongoing maintenance of the facility.

    b. If the Town accepts dedication of a Detention basin or Retention basin, or if the Detention basin or Retention basin is intended to be part of a pocket park or common open space area, regardless of ownership or maintenance, the following standards shall apply:

        i. The bottom of the pond shall be planted with turf grass or similar, in order to provide an active playing field, and irrigated at 3 AF/Ac.

        ii. Slopes shall comply with Town standards but in no case shall exceed a slope of 6:1. Slopes shall be planted with either native seed and irrigated according to the Town's Engineering Specifications and Standards and provisions found in the Berthoud Development Code.

        iii. Trees shall be planted at the top of the retention pond at a distance of one tree every 40 linear feet, and irrigated at 1.33 AF/ac. Ground cover may include native seed and shrubs.

        iv. Adequate access in the form of sidewalks and/or trails shall be provided to the detention basin or Retention basin for pedestrians, the physically disabled and for maintenance equipment.

        v. Drainage structures shall be designed and located to facilitate maximum use of the detention area for recreational use.

    c. Amenities such as benches, play equipment, game courts and playing fields appropriate to the size and location of the detention pond shall be required and based upon proposed/existing adjacent uses unless the detention pond location or design does not reasonably accommodate the amenities. On one acre or less, fewer amenities are required. The applicant shall be responsible for installing all amenities per Town standards.

F. Submittal standards for landscape plans can be found in the Subdivision and Land Use Regulations section of this Chapter.

G. *Street Tree Work Permit.*

1. *Intent.* The Town of Berthoud Street Tree Work Permit is intended to promote a more overall healthy and sustainable urban forest by allowing Forestry Staff to develop a greater understanding of management needs and maintenance being performed on trees that are located within tree strips as that term is defined in Definitions Section of this Code. This program is intended only for trees located within tree strips for which property owners/occupants are responsible for maintaining, removing, and replacing pursuant to the Development review deposit and reimbursement of Town costs Section as well as this Street Tree Work Permit Section after developments are out of warranty; not trees located on private property.

2. *Definitions.* As used in this Section and in the Development review deposit and reimbursement of Town costs Section, the following words will have the meanings indicated:

    a. *Applicant* means an individual who is a natural person who owns a Property, and by virtue of said ownership is required to maintain, remove, and replace trees located within the Tree Lawn adjacent to Applicant's Property.

    b. *Property* means a parcel of real estate within the Town of Berthoud, Colorado, which is adjacent to a tree strip .

c. *Tree Strip* shall have the same meaning as defined in the definition section of this Chapter.

d. *Right-of-Way*, as defined in the Definition Section of the Berthoud Development Code, is a strip of land occupied or intended to be occupied by a street, crosswalk, railroad, road, electric transmission line, oil or gas pipeline, water main, sanitary or storm sewer main, irrigation ditch or for another special use.

e. *Street Tree Work Permit* means a permit for performing maintenance on a tree that is located within a tree strip .

f. *Maintenance* includes pruning, chemical treatments of pesticides, fungicides, or fertilizers, replacement, removal or any other actions that may affect the health of a tree.

3. *Procedure.* The following procedure shall apply when an Applicant desires to apply for a Street Tree Work Permit:

a. Any Applicant may apply by filling out a Street Tree Work Permit Application ("Street Tree Work Permit Application") and submitting the Street Tree Work Permit Application to the Forestry Department. The Street Tree Work Permit Application shall be created and approved by the Town's Forestry Department, and may be amended from time to time in the sole discretion of the Forestry Department. There shall be no cost for obtaining a Work Permit Application.

b. Town Staff is authorized to review and either approve or disapprove Applicant's Street Tree Work Permit Application, and may contact Applicant if any additional information is required. Town Staff will review each Street Tree Work Permit Application for conformance with standards set by the Town Forestry Department, and which standards may be amended from time to time.

c. If Applicant's Street Tree Work Permit Application is approved, the Applicant will be contacted for further instructions. Street Tree Work Permit Applications are valid for 60 days after approval date. A follow-up site evaluation may be conducted and recorded after tree maintenance has been performed.

4. *Requirements.* The following requirements, in addition to any other requirements imposed by Town staff in their discretion, must be met prior to Applicant being granted a Street Tree Work Permit:

a. Tree maintenance, removal, and replacement must be performed by a Town of Berthoud Licensed Tree Service, or Applicant.

b. Applicant shall be responsible for all costs associated with maintenance, removal, and replacement of the tree(s) within tree strips. .

c. Tree pruning shall consist of crown raising, crown reduction, crown thinning (no more than 25 percent of live crown), crown cleaning, and root reduction.

d. Chemical treatments shall identify tree species and size, targeted insect/disease/deficiency, and product applied/application rate/application method.

e. Trees must be removed with good cause. Good cause, as used in this section, shall mean the subject tree is dead, dying, hazardous, in poor health, incorrectly planted, is of a prohibited species, or per part of a management plan.

f. After removal, stumps must be properly removed six to eight inches below ground level and all wood material must be removed from the work site within 48 hours.

g. New trees to be planted within tree strips shall comply with the Town's Tree Planting Standards. The Town's Tree Planting Standards are attached to this Ordinance, and may be amended from time to time in the sole discretion of the Town.

h. New trees to be planted within tree strips shall meet species, size, diversity, and spacing requirements per the Development review deposit and reimbursement of Town costs Section of the Berthoud Development Code.

5. A Street Tree Work Permit must be acquired prior to performing any maintenance, removal, or planting of any tree located in a tree strip.

6. Town Staff is hereby authorized and directed to develop an appropriate Street Tree Work Permit Application form to be submitted by an Applicant when such Applicant wishes to obtain a Street Tree Work Permit.

7. Town Staff is hereby authorized to inspect, conduct surveys, and perform maintenance as needed on any tree within tree strips.

8. Any violation of any provision contained in this section shall be punishable by a fine up to $2,500.00.

30-6-114 Fences and walls

A. *Intent*. To ensure that walls and fences are attractive and in character with the neighborhood. The creation of fence "canyons" along streets and fence "walls" adjacent to parks, trails and sidewalks, open space areas, and other public areas where the majority of the view from the public right-of-way is of fences, is prohibited.

B. *General provisions*.

1. *Compatibility*. Walls and fences along collector or arterial streets or at edges of developments and constructed as part of the development shall be made visually interesting by integrating architectural elements such as brick or stone columns, varying the alignment or setback of the fence, softening the appearance of fence lines with plantings, or through similar techniques. A fence or wall may not consist of a solid, unbroken expanse for more than 50 feet.

2. *Prohibited fence materials*. Security fencing such as concertina or razor wire, barbed wire, or electrically-charged fences is prohibited unless specifically allowed by the Town. No stranded wire, barbed wire, or electrified fence shall be installed in any residential district. In commercial and manufacturing districts, the Town may grant a permit for the installation of security arms and barbed wire strands atop protective fences or walls.

3. *Retaining walls*. Retaining walls shall be designed to resist loads due to the lateral pressure of retained material in accordance with accepted engineering practice and shall not be unsightly or detrimental to abutting property.

4. *Height limitations*. Fences or walls shall be:

a. On corner lots, each yard adjacent to a public right-of-way, excluding alleys, shall be designated as a side or front yard based upon the orientation of the house and the street address of the building. For purposes of this section, the side yard is that portion of a lot which is located between the primary structure and the side property line adjacent to the street. The designated side yard on a residential property will have a maximum fence height of four feet unless such fence is located at least 15 feet from the edge of the curb closest to the building or two feet from the edge of the sidewalk closest to the building or at the property line, whichever distance is greater; however, in no case shall a fence be located closer than two feet from the edge of the sidewalk. For properties whose rear property line abuts an alley, an eight foot site distance triangle must be maintained or the fence shall be a maximum of four feet in height for a distance of eight feet along the rear and side property lines.

b. On all corner lots, no fence or wall shall be placed or maintained within the triangular yard space formed by the intersection of the curb lines of the intersecting streets, or flow line if there is no curb, and a line joining points on said curb or flow line 30 feet from the point of intersection of said lines.

c. In commercial and manufacturing districts with Town approval, security arms and barbed wire strands atop protective fences or walls, provided that the lowest strand of barbed wire is maintained at least six feet above the adjoining ground level outside the fence. Agricultural districts may use stranded wire, barbed wire, or electrified fencing for agricultural purposes.

d. No fencing or improvements may be installed on rights-of-way or easements owned or shared by the Town without first obtaining a building permit. The issuance of the building permit and the construction of any improvements shall only be done with the understanding and agreement by the owner(s) that the improvements will be immediately removed at the owner(s)' sole expense at the request of the Town.

Table 2.7: Fence requirements

Zone District	Front Yard	Side Yard	Rear Yard	Behind Structure	Side Yard Of Corner Lot 0'/15' from Lot Line Abutting a Street
TN	4'	6'	6'	6'	4'/6'
R1	4'	6'	6'	6'	4'/6'
R2	4'	6'	6'	6'	4'/6'
R3	4'	6'	6'	6'	4'/6'
R4	Height to be determined by use				
R5	4'	6'	6'	6'	4'/6'
C1	3'	6'	6'	6'	3'/6'
C2	3'	6'	6'	6'	3'/6'
M1	4'	8'	8'	8'	4'/8'
M2	4'	8'	8'	8'	4'/8'
AG	6'	6'	6'	6'	4'/6'

5. *Maintenance*. Dilapidated, unsightly or dangerous fences shall be removed or repaired when so ordered by the Town.

6. Permits for fences that encroach onto the public right-of-way shall be revocable at the discretion of the Town.

30-6-115 Residential design standards

A. *Purpose.* The Board of Trustees of Berthoud have determined that residential development is a primary component of land use in this community and that the appearance of single or multi-family dwellings from the street is intrinsically related to the preservation of neighborhood character and quality of life.

B. *Applicability.* The design standards stated in this "section" are intended to implement strategies for residential development, and promote quality design of an urban environment. In an effort to avoid monotonous streetscapes, all residential development (including PUDs and development on individual lots or parcels) shall include a mixture of different lot sizes, dimensions, and housing models, as provided and described in this section, unless expressly exempt by this section. In addition to the requirements of this section, applicants will be required to follow *the Town of Berthoud Architectural Design Guidelines*.The requirements of this Section shall not apply to the rebuilding of a structure not in conformance with this Section that has been damaged or destroyed by fire or natural disaster.

C. *Compliance required for building permit.* Compliance with this Section, as determined by the Planning Director, shall be required as a condition of the issuance of a building permit for any single or multi-family residential dwelling. A decision by the Planning Director may be appealed by the Applicant to the Planning Commission on appeal, acting as the Board of Adjustment. Architectural elevations shall be submitted with all site plans. Block diversity plans shall also be submitted as required herein, during the building permit process.

D. Suburban *Residential Design standards.* The intent of this section is to foster new residential development with architectural designs that create diversity and variety along residential streets.

1. *Street Patterns and Pedestrian and Bicycle Connectivity.*

    i. *Type:* Street Patterns may have either a Suburban curvilinear character or a gridded pattern.

    ii. *Walkability and bike-ability:* shall be guiding principles in the design of the overall subdivision pattern.

    iii. *Arterial and Collector Streets:* All arterial and collector streets shall provide dedicated bike lanes, and bike parking or racks should be provided where public or private amenities (Subdivision Identity, Open Space Elements, or Parks) are provided. All arterial and collector streets shall provide a minimum of ten-foot tree lawns. No residential lots shall load onto arterial or collector streets.

    iv. *Local Streets:* All streets must provide seven-foot detached tree lawns and five-foot minimum sidewalks along both sides of each road. Sidewalks shall be interconnected throughout, and connect to any nearby trails, parks, or open spaces. Painted bike lanes or shared bike lanes are encouraged on local streets.

2. *Architectural design of dwellings.* All dwellings and accessory structures shall provide quality architectural design that takes into consideration building massing and style, roof lines, window and door placement, exterior materials and colors and other architectural features. Also see *Town of Berthoud Architectural Design Guidelines* for all design guidelines.

    a. *Exterior colors of residential dwellings.* Residential subdivisions and developments shall include a variety of exterior color palettes to provide diversity within the subdivision or development. Color palettes shall be included in the design guidelines submitted with a subdivision or development. Fluorescent or intense colors shall not be used on any wall or roof of any dwelling or accessory structure.

3. *Lot diversity:* Housing types, block dimensions, garage placement, lot sizes and lot dimensions shall be significantly and substantially varied to avoid repetitive rows of housing and monotonous streetscapes.

    a. *Mix of housing.* A mix of permitted housing types shall be included in any individual development plan.. All housing types shall be distributed evenly (of equal percentage distribution) throughout the development. In order to promote such variety, the following minimum standards shall be met:

        i. A minimum of three housing diversity types shall be required in residential development containing 20 acres or less, including such plans that are part of a phased overall development;

        ii. A minimum of four housing diversity types shall be required in residential development containing more than 20 and less than 40 acres, including such plans that are part of a phased overall development;

        iii. A minimum of six housing diversity types shall be required in residential developments containing between 40 and 80 acres including such plans that are part of a phased overall development;or more;

vi. A minimum of eight housing diversity types shall be required in residential developments containing 80 or more acres, including such plans that are part of a phased overall development.

b. The following is a list of Housing Diversity types in the Town of Berthoud , to be used to meet the requirements listed above, contingent upon the Land Use Table allowances. :

1. Rowhomes or Townhouses
2. Paired Homes, Duplex with separate accesses points visible from the street
3. Paried Homes, Duplex with a common entry
4. Live/Work units
5. Clustered Homes (type of residential development where homes are built close together—typically on smaller lots than traditional subdivisions—with centralized shared open space
6. Tiny Single Family Residential Lots (less than 30' wide)
7. Small Single Family Residential Lots (30'-40' wide)
8. Standard Single Family Residential Lots (40'-70' wide)
9. Large Single Family Residential Lots (over 70' wide)
10. Any Residential Lot can be diversified by providing driveway access with either rear yard garage placement or alley loaded garage placement
11. Multifamily (single stair) with common entry
12. Multifamily (elevator)

4. *Housing elevation diversity:*

a. Different housing elevations are distinct in exterior massing and architectural detail. The following housing elevation diversity requirements apply

- Diversity type count 100 and above - **twelve** different housing elevations for that diversity type will be required.
- Diversity type count 51 - 99 - **eight** fferent housing elevations for that diversity type will be required
- Diversity type count 21 – 50 - **six** different housing elevations for that diversity type will be required
- Diversity type county 8 – 20 – **four** different housing elevations for that diversity type will be required
- Diversity type count 2-7 - **two** different housing elevations for that diversity type will be required

b. Exterior elevations shall be distinct in exterior massing and architectural detail as outlined in the Town's Architectural Guidelines.

c. Housing elevation requirements per street:

	# of Lots between on same side of street*	Lots Across the Street*	Cul-de-sacs
Elevation (must be distinct in nature to be considered a separate	Every 4 (3 lots between)	Not across the street	Spaced not across, plus one down (or

elevation-minor aesthetic changes will not be counted as separate elevations)			cattycorner) left and right on each side
Material Palette (also must be a distinct color difference to be counted)	Every 4 (3 lots between)	Not across the street	Not across, plus one down (or cattycorner) left and right on each side
Front Porch/Staggered Setbacks	Front porches can be utilized instead of line of house, for staggered setbacks	Not applicable.	Staggered setbacks not required on cul de sacs

* Adjacent lots shall include abutting lots, or those lots separated by a street, alley, auto court, loop lane, or other common private drive.

d. The following shall apply to all single family development, as applicable

1. Corner lots should have side yard to street elevations with improved exterior details and massing as suitable for a street side elevation.
2. Garages should not exceed 50% of the street frontage of any housing model.
3. Lots less than fifty (50) feet wide on the street frontage shall have either a rear-loaded garage, a side-loaded garage, or a single-lane driveway with a garage located at the rear of the lot.
4. Garages should be recessed from the front elevation by a minimum of 2'
5. Front setbacks on adjacent lots shall vary by at least two feet to provide for a varied streetscape, and verification of this standard shall be provided by the Applicant in the Block Diversity Plan.

5. *Block Diversity Plan.* The Block Diversity Plan is an opportunity for applicants to provide the Town with visual and graphic images showing the type of residential architecture that is to be constructed on each block of the proposed development. Applicants shall provide the Town with exterior elevations of proposed residential structures with the location of each structure depicted on the Final Plat (examples of the Block Diversity Plan format follow). Applicants can chose to submit Development Neighborhood Design Guidelines in place of a Block Diversity Plan . Guidelines should enforce the requirements of this section and shall be accompanied by the method of how the guidelines will be approved by a HOA or District prior to building permit application submittal.

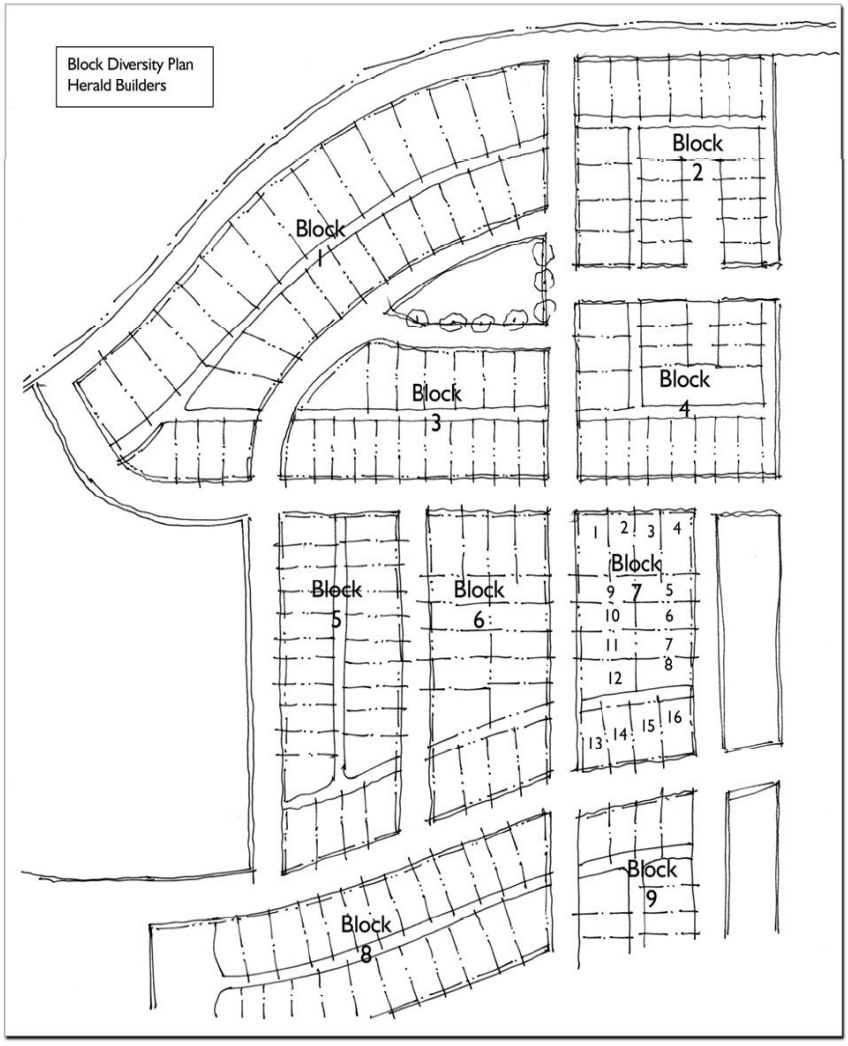
i. *Applicability.* Every phase that would include five or more residential building permits must complete a Block Diversity Plan. The Block Diversity Plan will be submitted as part of the building permit process.

ii. *Review and Approval.* Review of any Block Diversity Plan will be based upon conformance to the intent of the architectural and design policies found in this Section. Review and approval will be conducted and determined by Town Staff.

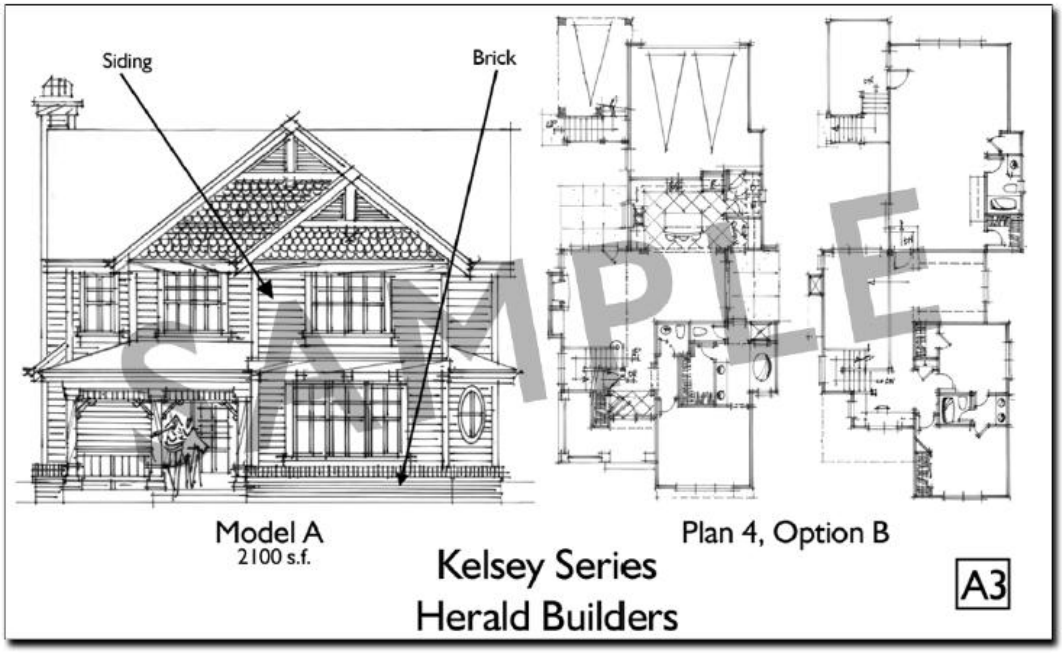
BLOCK DIVERSITY KEY									
DWG. NO.	BLOCK	LOT	SERIES	MODEL NO.	PLAN NO.	OPTION PACKAGE	EXTERIOR MATERIALS	STYLE	COLOR SCHEME
A3	2	15	KELSEY	A	4	B	BRICK/SIDING	VICTORIAN	7

SAMPLE

Sample Block Diversity Key



Sample Block Diversity Map to be submitted by the Builder/Developer, to illustrate housing mix.



Sample Elevation and Floor Plan Submittal

7. *Multi-family stacked units, including condominiums and apartments.* Applicants seeking to build multi-family units shall achieve a balance between repetition and variety in the architecture of these buildings. Each multi-family dwelling containing more than three dwelling units shall feature a variety of massing proportions, wall plane proportions, roof proportions and other characteristics. The following specific standards shall apply to multifamily stacked units, including condominiums and apartments:

1. *Individual building identity.* For all developments consisting 100 or more multi-family stacked dwelling units, a floor plan may be repeated; however, identical building facades must not be replicated more than twice within the development. During the site plan approval process, the applicant shall illustrate how the development will comply with the requirements set forth in this section.

2. *Articulation.* The intent of this section is to require building design that achieves balanced and articulated building composition, a perceived intimate scale of buildings, and pedestrian interest. façade.Buildings over 60' in width shall provide variety in segments less than or equal to 40'. Each segment shall vary by the type of dominant material, or by color, scale or orientation of that material and by at least two of the following:

    i. Recesses, projections or significant offsets in the wall plane;

    ii. Distinct individualized entrances;

    iii. roof type, plane, or material;

    iv. Balconies

    Window placement or scale.

    v. Height differentiation between buildings.

3. *Roofs.* Each multi-family building shall feature a combination of primary and secondary roofs. Primary pitched roofs shall be articulated by at least one of the following elements:

    i. Changes in plane and elevations;

    ii. Dormers, gables or clerestories;

iii. Transitions to secondary roofs over entrances, garages, porches, or bay windows.

4. *Color.* For all developments, there shall be no more than two similarly colored structures placed next to each other along a street or major walkway.

5. *Garages.*Garages should be internal to the development and concealed from the right of way. When garages are visible from the public right of way or adacent property, the architecture should follow the design intent and quality of the primary structure.

1. *CD Conservation District.* The Conservation District (CD) is intended to provide for primarily low-density housing types and large areas of conservation.

a. S*treet Patterns and Pedestrian and Bicycle Connectivity.*

i. *Land Pattern:* Development should occur in a rural style, including larger lot sizes, sizeable setbacks, and expansive areas dedicated to conservation. Dead end streets and cul-de-sacs are discouraged in favor of looping and connected street patterns. Conservation subdivisions should follow conservation design development concepts, where a significant portion of the property is permanently protected as open space and a small percentage is developed for low density residential lots that are placed to minimize impacts to environmental resources.

ii. *Arterial and Collector Streets:* All arterial and collector streets shall be built to the Town of Berthoud's standards. Conservation District subdivisions should have direct access to these roadways via a local road and all residential lots should have a substantial buffer. No lots should have a direct access to an arterial or collector street.

iii. *Local Streets:* Streets are intended to be rural in nature, characterized by borrow ditches and no curb and gutter or sidewalks. Street trees and streetlights will not be required.

iv. *Bicycle and Pedestrian Connectivity:* Painted bike lanes or shared bike lanes are required on local streets. Bike racks should be provided where public or private amenities (Subdivision Identity, Open Space Elements, or Parks) are provided. Crusher fines off-street trails as transportation or leisure routes are heavily encouraged. Trails identified in the current Trails Master Plan are required to be constructed along with the development.

c. Site Design.

i. *Lot Size and General Layout.* Even within the development cluster, the highest priority for site layout shall be the preservation of environmentally sensitive areas and agricultural uses. The location of home sites and the corresponding layout of lots and streets shall have a lower priority and shall be designed to create a compact development pattern. No minimum lot size is required in the development cluster, except for those developments and lots that use on-lot septic systems or wells where the minimum lot size is two acres (87,120 square feet).

ii. Site layout shall be oriented to:

1. Achieving the best possible relationship between development and features of the land;

2. Minimizing alteration of the natural site features and topography;

3. Relationship to surrounding properties;

4. Improving the view from and the view of buildings; and

5. Reducing the area devoted to roads and utilities.

iii. Flexibility in lot size is encouraged to:

1. Promote a design that is sensitive to the natural environment;
2. Adapt to the natural topography of the site;
3. Accommodate the mix of residential land uses and housing types proposed within the development;
4. Design for compatibility with agricultural uses and other existing and allowed uses.

5. To the extent practical, home sites should be located to enhance visual access to residual land both from the proposed development and from adjacent lands.

iv. *Residual Lands.*

1. Residual land in conservation developments shall be designed to achieve the maximum contiguous amount of open space possible while avoiding the creation of small, isolated, and unusable areas.
2. Roads, pedestrian walkways, and trails may connect through the residual land.
3. Where practical, residual land should be located contiguous to and be connected with other residual land on the site or residual land adjacent to the conservation development boundaries. Connectivity is based on visual connections for residents of the development and, where applicable, physical connections for wildlife habitat.
4. Residual land may include such uses as pedestrian and bicycle areas, buffer areas and common area devoted exclusively to the use of the residents of the conservation development and their guests.
5. Residual land areas containing environmentally sensitive areas or features can not contain any structure or improvements, except walkways or trails, provided such areas are determined to be appropriate for walkways or trails and they can be constructed with minimal disturbance to environmentally sensitive areas.
6. Residual land areas shall not include road rights-of-way or parking areas, except in projects with a ratio of 20 percent developed area to 80 percent residual land, the road right-of-way, up to 70 feet in width, may be included in the calculation of the required residual land.
7. Uses in residual land are limited to such uses, accessory structures, and improvements necessary for agricultural uses or for the educational, cultural, recreational, or social enjoyment of the residents of the conservation development and their guests, and any utility services, including community sewer systems, providing the coverage of all structures and improvements in the residual land does not exceed five percent of the residual land.
8. All residual land not developed as part of the conservation easement must be held or dedicated as a perpetual conservation easement, or as open space to the Town of Berthoud.
9. Residential conservation tracts shall not subdivided.

d. *Design Requirements.*

1. Structures shall be sited to optimize the shape and configuration of farmable parcels and fields. Fragmented farmland and wildlife habitat shall be avoided to the maximum extent practicable.

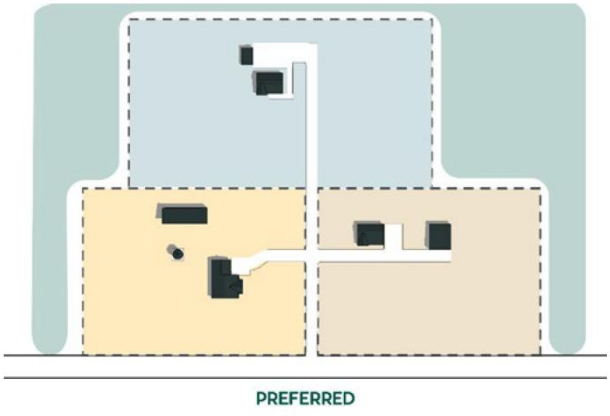
2. Structures shall be located at the edges of farmland to allow the creation of cohesive farm fields.

3. New structures or development shall be located at the edge of existing developed areas in compact configurations. Where possible, development should be located at the edge of farmland or natural features such as a ridgeline, tree stand, bluff, or stream.

4. Fence rows shall be used where practicable to define productive parcels and developed areas.

5. Driveways shall be located along fencerows or other natural features that are not incorporated into farm fields. The distance and number of driveways shall be minimized to the maximum extent practicable. See Figure below.

Figure Driveway Site Design



e. *Multiple-lot residential development.*

1. Multi-lot conservation development shall be clustered in the form of a typical farmstead and served by a cul-de-sac road. See Figure regarding Cluster Development with Cul-de-Sac.

2. Developed land adjacent to farmland shall be minimized to prevent the loss of farmland.

3. Development shall be designed and sited to minimize the perimeter of developed areas adjacent to farmland.

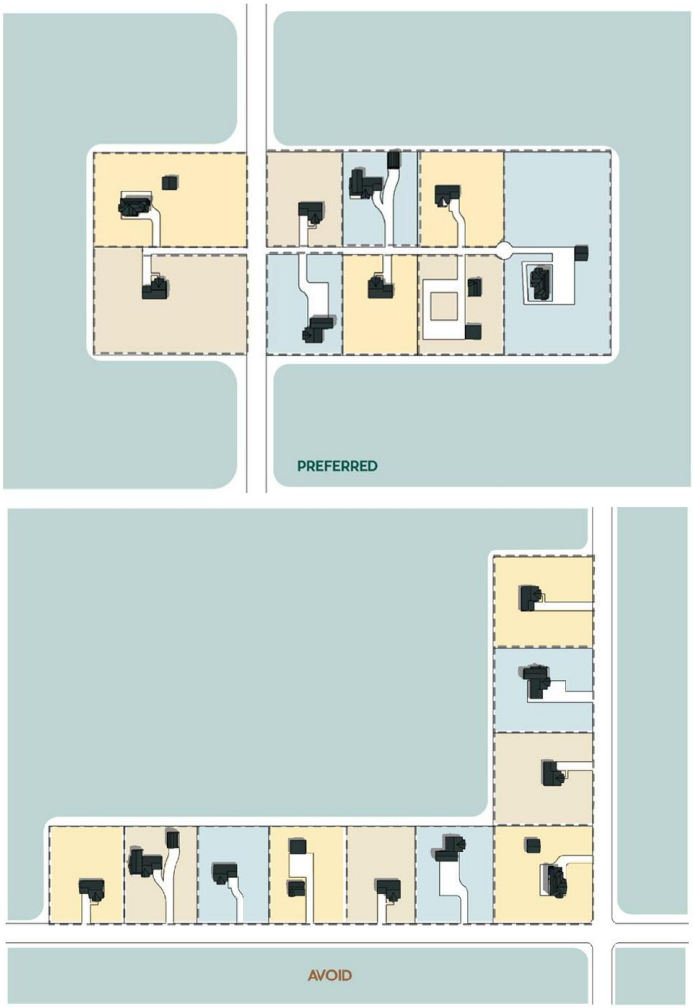
4. Large, isolated lots shall be avoided to the maximum extent practicable.

5. Development Sited Away from Roadway: Homes and outbuildings shall be set back from the road and shall not be designed to line the roadway with structures and driveways as shown in the figure below.

Figure Development Sited Away from Roadway



Figure Cluster Development with Cul-de-Sac



f. *Building Envelopes.*

1. In lieu of setbacks, building envelopes may be designated for each lot to identify the area where all buildings shall be constructed and to provide adequate separation between buildings and uses or activities.

2. Building envelopes shall be designed to avoid hazard areas, the tops of ridgelines or slopes, view corridors, open fields, sensitive environmental areas, and agricultural infrastructure.

3. To the maximum extent feasible, all building envelopes shall be located at least one-quarter mile (1,320 feet) from the edge of the Interstate 25 or Highway 287 right-of-way.

4. The placement of buildings within building envelopes along the street frontage should be varied to minimize uniformity.

5. If building envelopes are used, agricultural buildings may be located outside the building envelope on the residual lot if specified as part of an approved development. Applicable base zoning district setbacks shall still be applicable.

6. A building envelope may be used to limit the location of various types of structures. When so used, the types of structures limited to the building envelope shall be clearly stated as part of an approved development with the implication that all other types of structures may be located outside the building envelope

g. *Buffering.*

1. Perimeter buffering of a development cluster is required to minimize visual and noise impacts where adjacent land uses are of a different type (e.g., residential adjacent to commercial or industrial) or are of a substantially different residential density; or where the cluster is adjacent to a county road, state or federal highway or a railroad.

2. Where the proposed cluster abuts an existing or approved residential, mixed-use, or commercial development, the buffer shall be at least equal to the required rear yard depth of the adjacent lots. Where the proposed cluster abuts a county road, state or federal highway or a railroad, the buffer is measured from the edge of the existing right-of-way and shall be of a width and design to reduce visual and noise impacts from the road, highway, or railroad.

3. Buffering may be accomplished through the use of increased separation between land uses and/or by using native or drought resistant vegetation, fencing, walls, or a combination of these measures.

4. The traditional concept of using windbreak plantings around a farmstead may be desirable for the design of buffering between a cluster and agricultural uses.

h. *Fencing.*

1. Privacy fencing may be used in conservation developments when the backs of lots are adjacent to a county road or state highway, or on individual lots to provide privacy or enclosure for the lot or a portion of the lot. Such privacy fencing shall be constructed of wood.

2. Fencing should be designed to conform to the topography and be of a color that blends with the natural environment.

3. Plastic and fiberglass fencing is prohibited

30-6-116 Subdivision identity and place standards

A. *Intent.* Subdivision identity and place elements shall be provided with all development proposals containing a residential component. The Subdivision identity and place standards ensure spaces are created for gathering, recreation, and design features. These spaces are required to create a unique character or sense of identity within each subdivision. Subdivision identity and place elements may include a pocket park, trail system, pedestrian plaza and/or courtyard, community building or pool, community garden or pollinator garden, artwork/water features, playground or picnic/barbeque area, signage, fencing, and other approved elements which substantially improves the character of the subdivision.

Except as otherwise provided herein, no credit for one of the required features, shall be given for items that are otherwise required by other provisions of this Development Code, such as landscaping, park or open space requirements. A mechanism shall be defined and established by the developer to ensure perpetual maintenance of all subdivision identity and place features. Where such mechanism involves a homeowners' association or metro district, there shall be clear language provided of their responsibility on all plats and development agreements.

B. *Applicability.* Subdivision identity and place features are required in all developments which include residential use, including un-platted phases of existing developments. In new developments, the required subdivision identity standards will be counted for the entire development; in existing developments with un-platted phases, all new phases will require elements as per the number of units/acreage of the remaining phase proposed. Where the number of acres and the number of dwelling units proposed in a development results in two different numbers of required subdivision identity and place elements, the larger number of required elements shall be used. The following table specifies the quantity of elements required per the number of units or acreage of the development.

Subdivision Identity and Place Element Table

Number of Units/Acreage of Development	Elements Required (22 total possible)
5 to 20 Dwelling units; or 2-5 acres	4
21 to 50 dwelling units; or 6-11 acres	7
51 to 100 dwelling units; or 11-50 acres	8
101 to 200 dwelling units; or 51-100 acres	9
201 to 300 dwelling units; or 101-200 acres	10
Over 301 dwelling units; or 201 acres or more	11

C. *Elements.*

1. *METRO/HOA Responsibility.* All elements shall be the responsibility of the Metro district or HOA, unless otherwise agreed upon by the Town.

2. *Element Category Eligibility.* Combining elements of one category or offering multiple elements in one of the element categories below, will not count towards the total required elements outlined in the Table above (ex. five playgrounds which satisfy the requirements below, will only be entitled for credit for one element for playground features, and not be credited for five elements); each element category may be counted towards the overall total only once.

3. *Element Category Credits.* One credit shall be given for the following subdivision identity and place elements:

    a. *Trails* shall be designed to provide areas for walking, bicycling and/or riding in areas separate from and in addition to traditional sidewalks. Trails are to be avoided along collector and arterial streets and should include meandering pathways or trails rather than linear sidewalk. Trails shall be designed and constructed using one of the following designs appropriate for the location as determined by the Trails Master Plan in the Berthoud PORT Plan, and as determined by Town Staff:

i. Ten-foot-wide paved concrete multi-modal trail .

ii. Eight-foot-wide crusher fines trail with collared edges, or as per the parks master plan, whichever is greater .

b. *Pocket Park:* A pocket park(s) ranging from one-third of an acre to two acres in gross size. Pocket Parks ranging from two acres to five acres in size, shall count as two elements.

c. *Artwork:* Artwork such as sculptures, fountains, water features, informational placards.

d. *Playground:* Any playground(s) with commercial grade playground equipment, picnic/barbeque areas with commercial grade equipment, or court games (tennis, volleyball or basketball), provided the area is at least 1,000 square feet in size, and the detail of the playground equipment, must be included with the site plan/landscape plan.

f. *Pollinator Gardens:* A pollinator garden(s) with collars to define edges, and a minimum of 1,000 square feet (aggregate) of size for 21 to 50 dwelling units and/or 11 acres or less; and 1,000 square feet of additional pollinator garden area per the graduated subdivision dwelling unit and acreage size .

g. *Pool:* An in-the-ground swimming pool at least 20 feet by 40 feet in size .

h. *Community Building:* A community building at least 4,000 square feet in size to serve the subdivision with meeting rooms, restrooms, changing/locker rooms, and/or fitness facilities or any combination of the above.

i. *Entryway:* An integrated entryway system, including retaining walls, walls, landscaped area, medians, lighting and/or subdivision signs crafted of brick, stucco or wrought iron.

j. *Buffer Areas:* Buffer yards along arterial and collectors, adjoining subdivisions, and/or the perimeter of the subdivision of no less than 30 feet. Buffer areas shall be comprised of berms, turf, trees, and/or shrubs.

k. *Fencing and Walls:* Enhanced fencing or walls which may include masonry, brick, wrought iron and/or unique alignments such as serpentine, off-sets, sculptural effects and/or more frequent placement of columns or posts, shall be counted as one-half of one element. F Vinyl fencing will not be eligible for element credit.

l. *Useable Detention Areas:* A useable or improved detention pond(s) a minimum of 5,000 continuous square feet in size, with turf, natural grass, trees, shrubs and other amenities such as benches or picnic tables that do not impede detention capacity, including a permanent irrigation system and higher quality construction materials (i.e., decorative rock for riprap), and/or ability for use as athletic fields, to be perpetually maintained by the development.

m. *Existing Trees:* Protecting or retaining existing trees of sufficient calipers and will require the submittal of an existing tree survey to qualify.

n. Useable Open Space: Open space (above the already required ten percent) that is comprised of a continuous 10,000 square foot turf area which can be easily utilized for recreational activities, such as a disc golf course.Pollinator garden areas may be included in the useable open space calculation.

o. *Alley Loaded Streets:* Alley loaded streets along any arterial, collector, or lots fronting onto a neighborhood park and/or open space if maintained by the HOA or Metro District.

30-6-117 Mixed Use Commercial and industrial standards

A. *Intent*. The Town has distinctly different downtown, commercial and industrial types of development contemplated within the community. . In addition to the requirements of this section, applicants will be

required to follow *the Town of Berthoud Architectural Design Guidelines* specific to the place type assigned to the property.

B. *General provisions for commercial and industrial proposals*.

1. *Connections*. Commercial developments must be linked with surrounding areas by extending Town streets, sidewalks, and/or paths directly into and through the development, thereby providing convenient, direct pedestrian, bicycle and vehicle access to and from all sides of the development.

2. *Accessibility*. Developments must be accessible to pedestrians and bicyclists as well as motorists and the emphasis must not be placed solely on parking and drive-thru functions. Site plans shall equally emphasize the following:

    a. pedestrian access to the site and buildings;

    b. gathering areas for people; and

    c. auto access and parking lots.

3. *Walkways*. Walkways must be located and aligned to directly and continuously connect areas or points of pedestrian origin and destination, and not be located and aligned solely based on the outline of a parking lot configuration that does not provide such direct pedestrian access.

4. *On-street parking*. Streets and other elements of the site plan shall be designed so that on-street parking is a functional part of the development (except along arterial streets, or within the exempt Downtown parking areas as defined in the Parking Section of this Chapter.

5. *Building orientation*. Buildings in the C1, and R-4 Zone District shall be at the front property/built-to line as required in the Commercial and Industrial Standards Section of this Chapter. Buildings within the R-4 Mixed-Use district are strongly encouraged to place the building and facades at the front property line, to form a continuous street façade. Building setbacks from local and collector streets should be minimized in order to establish a visually continuous, pedestrian-oriented street frontage.

6. *Wall articulation*.

    a. Walls shall not have an uninterrupted length exceeding 50 feet. Pilasters, texture transitions, windows, stepping of the wall plane, and/or landscaping accomplishing the same effect are required to satisfy this standard as specified in the Commercial and Industrial Standards Section of this Chapter.

    b. Blank wall or service area treatment of side and/or rear elevations visible from to the general public is not allowed unless the Community Development Director determines there are adequate building or landscape features to conceal the view of the blank wall.

7. *Facade treatment*. The architectural treatment of the front facade shall be continued, in its major features, around all visibly exposed sides of a building visible from adjacent residential and commercial zoned districts. Blank walls at side and/or rear elevations visible to the general public are prohibited adjacent to any residential or commercial zoned district.

8. *Windows*. Windows shall be vertically proportioned wherever possible.

9. *Awnings*. Fixed or retractable awnings are permitted. Canvas is the preferred material, although other water proofed fabrics may be used; metal, wood or aluminum awnings shall not be used unless otherwise approved by the Board.

10. *Screening of HVAC*: All air conditioning units, HVAC systems, exhaust pipes or stacks, elevator housing and satellite dishes, other telecommunications receiving devices and any other apparatus placed on the roof of a building shall be thoroughly screened from view from the public right-of-way and from adjacent properties by using walls, fencing, roof elements, and landscaping. In addition, all trash facilities, loading and parking areas shall be screened from public view by landscaping, building elements or approved fencing.

11. *Containers*. Storage Containers as defined herein shall not be located on any industrial or commercial property in a permanent manner, or for longer than a six month basis.

C. *C1, C2 and R-4 Mixed Use District design standards*. With respect to the Downtown business district (C1 zone), , and the Mixed-use (R-4) District these buildings have established a pattern of downtown development where buildings are located close to the sidewalk and form a generally continuous street facade. Pedestrian movement is the primary focus. Building height, architectural details, front setbacks, parking location, wall articulation, and sidewalks establish the architectural edges that define this area as a walkable commercial corridor. In addition to the requirements of this section, applicants will be required to follow *the Town of Berthoud Architectural Design Guidelines* specific to the place type assigned to the property.

b. *Street Patterns and Pedestrian and Bicycle Connectivity.*

i. *Land Pattern:* Development should occur in a "New Urbanist" style, including gridded street patterns, shorter blocks, and alley-loaded products. Dead end streets and cul-de-sacs should be avoided at all costs. Mixed-Use buildings are encouraged throughout the neighborhood, especially at street corners or along busier roadways.

ii. *Arterial and Collector Streets:* All arterial and collector streets shall be built to the Town of Berthoud's standards. These road types should be concentrated on the periphery of Urban Residential developments and should rarely provide direct access to individual lots.

iii. *Local Streets:* All streets must provide seven-foot detached tree lawns and minimum four-feet wide sidewalks along both sides of each road. Sidewalks shall be interconnected throughout, and provide natural connections to any nearby trails, parks, or open spaces. Painted bike lanes or shared bike lanes are encouraged on local streets.

iv. *Bicycle Connectivity:* Painted bike lanes or shared bike lanes are encouraged on local streets. Bike racks should be provided where public or private amenities (Subdivision Identity, Open Space Elements, or Parks) are provided. Off-street trails as transportation routes are heavily encouraged.

v. *Pedestrian Connectivity:* The size of buildings, street blocks, and amenities should be built to a pedestrian scale. Pedestrian street crossings should be plentiful, allowing for pedestrians to cross at natural locations. Off-street trails as transportation routes are heavily encouraged.

c. *Site Design*

i. *Layout:* Sites should be designed in a "New Urbanist" style with buildings built close to the sidewalk at a pedestrian scale.

ii. *Parking:* For buildings that include commercial and multi-family units, off-street parking should be located in the rear or interior of the building footprint. For single-family buildings access to the driveway and garage should come from the rear alley or side street.

iii. *Design:* All sides of a building that front a street should be activated architecturally. Corner buildings' side yards should continue the

elements found in the front yard. This includes the building façade materials, architectural features, landscaping, etc.

iv. *Ground Floor Residential Uses:* Where present, ground floor residential uses fronting a public street or walkway should be separated from the street by landscaping, steps, porches, grade changes, and low ornamental fences/walls.

Figure 1: Example of Suburban Development Pattern <u>Not</u> Permitted in this District

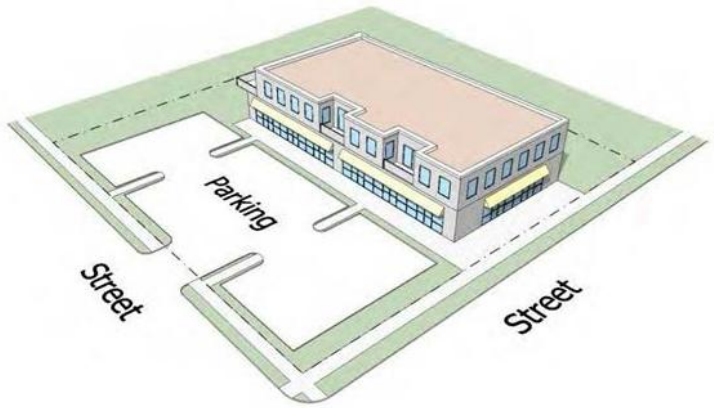


Figure 2: Example of Urban Development Pattern, Required by this District



D. *C2: General Commercial District architectural standards*. The C2 zone commercial district has been created to provide for the larger commercial uses that may not be appropriate in the original downtown (Mountain Ave.) area of Berthoud. In addition to the requirements of this section, applicants will be required to follow *the Town of Berthoud Architectural Design Guidelines* specific to the place type assigned to the property.

1. *Design of developments with internal orientation*. In multiple-building developments, where setbacks are increased to accommodate independent development with internal orientation, primary building entrances shall face walkways, plazas, or courtyards that have direct, continuous linkage to the street. However, it may be necessary for such direct pedestrian access ways to cross drive aisles. Driveway crossings must place priority on the pedestrian access.

2. *Connections*. Where it is not possible or appropriate to extend a town street or sidewalk directly into development or bring the building up to a town sidewalk, buildings shall create direct connections to adjacent land uses.

9. *Setback Requirements*: In the case of large buildings for employment, storage or auto-related uses, where greater setbacks are needed, a minimum of 30 percent of the building shall be brought forward to the front/street facing setback line. If a minimized setback is not maintained, the larger setback area shall have landscaping, low walls or fencing, a tree canopy and/or other site improvements along the sidewalk designed for pedestrian interest, scale and comfort.

10. *Location of parking lots*. Parking shall be provided to the greatest extent possible by spaces at the rear or sides of the building. If parking must be placed in the front, the front parking area shall have additional landscaping, low walls, an expanded tree lawn and canopy, and/or other site improvements along the sidewalk designed for pedestrian interest, scale and comfort.

12. *Screening*.

    i. Screening will be required for commercial activities including loading areas and docks that abut a residential area unless the activities and related storage are contained within a building or otherwise adequately screened from view from the residential area.

    ii. A minimum 15 foot deep landscaped yard shall be provided along all arterial streets, and along any district boundary line that does not adjoin a residential land use. If a district boundary line abuts upon or is within a street right-of-way, then the required landscaped yard shall commence at the street right-of-way line on the district side of the street, rather than at the district boundary line.

13. *Storage and Operational Areas*.

    i. Storage, loading and work operations shall be screened from view along all district boundary lines and along all public streets.

    ii. Within internal district areas, buildings may be surrounded by paving for vehicle use. To the extent reasonably feasible, side and rear yards in interior block locations shall be used for vehicle operations and storage areas, and front yards shall be used for less intensive automobile parking. At district edges, side yards shall be used for vehicle operations and storage areas, in order to allow for a finished, attractive rear building wall and a landscaped rear yard.

14. *Gas pumps.* No gas pumps shall be located forward of the principal structure, or fronting any arterial or collector roadway.

E. *Industrial (M1 and M2) architectural design standards*.

1. *Intent*. Industrial architectural standards are intended to create attractive public frontages for these uses while supporting the more utilitarian aspects of modern industrial operations. In addition to the requirements of this section, applicants will be required to follow *the Town of Berthoud Architectural Design Guidelines* specific to the place type assigned to the property. c. *Screening*.

    i. Screening will be required for Industrial activities and shipping areas/docks that abut a residential area unless the activities and related storage are contained within a building or otherwise adequately screened from view from the residential area.

    ii. A minimum 25 foot deep landscaped yard shall be provided along all arterial streets, and along any district boundary line that does not adjoin a residential land use. If a district boundary line abuts upon or is within a street right-of-way, then the required landscaped yard shall commence at the street right-of-way line on the district side of the street, rather than at the district boundary line.

iii. A minimum 80-foot deep landscaped yard shall be provided along any boundary line that adjoins a residential land use or a zone district (whether within or beyond the City's jurisdictional boundary) that is predominately characterized by residential uses as permitted uses. This residential buffer yard may be reduced to 25 feet if the adjoining residential land use or zone district (whether within or beyond the Town's jurisdictional boundary) is separated by a public street.

d. *Storage and Operational Areas*.

i. Storage, loading and work operations shall be screened from view along all district boundary lines and along all public streets.

ii. Within internal district areas, buildings may be surrounded by paving for vehicle use. To the extent reasonably feasible, side and rear yards in interior block locations shall be used for vehicle operations and storage areas, and front yards shall be used for less intensive automobile parking. At district edges, side yards shall be used for vehicle operations and storage areas, in order to allow for a finished, attractive rear building wall and a landscaped rear yard.

30-6-118 Commercial and Industrial buffering and screening techniques

A. *Intent*. To integrate adjacent land uses and provide seamless transitions from one use to another through the use of building orientation and access, landscaping, appropriate architectural elements, and non-buildable buffer areas.

B. *General provisions*.
1. Special consideration shall be given to adjacent land uses of different intensities. It shall be the responsibility of the developer of the more intensive use to ensure that the transition from one use to another is attractive, functional and minimizes conflicts between the current and planned uses.
2. It is the responsibility of the developer of the higher intensity use to demonstrate that the uses will be compatible. This can be accomplished through the effective use of shared access and parking, appropriate building orientation and setbacks, landscaping, architectural treatment, buffer areas, and limited use of fencing and screening walls. Special consideration shall be given to the impact of aesthetics, noise, lighting and traffic.
3. Buffering of up to 100 feet of non-buildable area may be required between any development and adjacent or different uses. A minimum of 150 feet of non-buildable area may be required between any development and adjacent natural or environmentally sensitive areas. The actual amount of any buffer area will be determined on a site-specific basis by the Community Development Director or the Town Administrator.

C. *Location and screening of required loading and service areas*.
1. Loading docks, solid waste facilities, recycling facilities, storage areas and other service areas shall be placed to the rear or side of buildings in visually unobtrusive locations.
2. Screening, buffering and landscaping shall be incorporated to prevent direct views of the loading, storage, and service areas and their driveways from adjacent residential or commercial zoned districts or from the public right-of-way. Screening and landscaping shall also prevent spill-over glare, noise, or exhaust fumes. Screening and buffering shall be achieved through walls, architectural features, and landscaping, and shall be visually impervious. Recesses in the building or depressed access ramps may be used.

D. *Screening of roof elements*.
1. All air conditioning units, HVAC systems, exhaust pipes or stacks, elevator housing and satellite dishes, other telecommunications receiving devices and any other apparatus placed on the roof of a building shall be thoroughly screened from view from the public right-of-way and from adjacent properties by using walls, fencing, roof elements including pipe chases, and landscaping.

E. *Trash dumpsters and recycling stations*.
1. Every development that is required to provide one or more dumpsters for solid waste collection shall provide sites for such dumpsters that are:

a. Located to facilitate collection and minimize any negative impact on persons occupying the development site, neighboring properties, or public rights-of-way; and
b. Constructed to allow for collection without damage to the development site or the collection vehicle.
c. Provide an area for recycling as well as disposal of solid waste.

2. All such dumpsters shall be screened to prevent them from being generally visible to:
   a. Persons located within any dwelling unit on residential property other than that where the dumpster is located;
   b. Occupants, customers, or other invitees located within any building on nonresidential property oth er than that where the dumpster is located; and
   c. Persons traveling on any public street, sidewalk or other public way.

30-6-119 Outdoor lighting and dark sky standards

A. Preface.

1. **Authority.** On behalf of the Town of Berthoud, this outdoor lighting code is enacted on the effective date pursuant to, and in accordance with, the authority of the Town of Berthoud Town Board.

2. **Purpose.** This outdoor lighting code is intended to protect the health and welfare of all residents within the Town of Berthoud, enhance its [character and quality of life], prevent inappropriate and poorly installed outdoor lighting, reduce lighting conflicts between property owners, prevent the increase of potentially harmful sky glow, and preserve the naturally dark sky for the benefit of residents, visitors, wildlife, and the environment. The purpose of this ordinance is to provide regulations for outdoor lighting that will:

   a. Permit the use of outdoor lighting that does not exceed the levels specified in International Engineering Society (IES) recommended practices for night-time safety, utility, security, productivity, enjoyment, and commerce.

   b. Minimize adverse offsite impacts of lighting such as light trespass, and obtrusive light to ensure that the functional and security needs of the project are met in a way that does not adversely affect the adjacent properties or neighborhood.

   c. Curtail light pollution, reduce sky glow and improve the nighttime environment for astronomy, intended to support the continued use, enjoyment, and success of Berthoud's Little Thompson Observatory and Bunyan Observatory at the Pioneer Museum and their operations.

   d. Help protect the natural environment from the adverse effects of night lighting from gas and oil extraction activities or electric services.

   e. Conserve energy and resources to the greatest extent possible.

   f. These standards should result in exterior lighting that is functional, aesthetically pleasing, and complimentary to the architectural style of buildings or setting.

   g. Light style. The style of lights shall be consistent with the style and character of architecture proposed on the site.

   h. Concealed light source. Light sources shall be concealed or shielded to the maximum extent feasible to minimize the potential for glare or unnecessary diffusion on adjacent property. All lights shall be directed downward and the light source shall be equipped with "cut-off" devices so that they do not negatively impact any adjacent property and to ensure that ambient skyward light is eliminated.

3. **The Five Principles for Responsible Outdoor Lighting** will guide the Town of Berthoud's outdoor lighting decisions because:

   a. Whereas, outdoor uses of Artificial Light at Night (ALAN) often include inappropriate and bright sources of light that cause an unsafe reduction in human visual performance; and

b. Whereas, excessive, unnecessary, and misdirected ALAN contributes to Light Pollution and wastes energy resources that would, if corrected, generate tangible cost savings; and

c. Whereas, increased use of ALAN has contributed to an escalation of Light Pollution, thus increasing the brightness of the night sky by 10% annually and rendering the current night sky orders of magnitude (often hundreds of times) brighter than the natural and original sky background; and

d. Whereas, Light Pollution from ALAN is known to cause adverse effects on the health and well-being of birds, wildlife, nocturnal ecosystems, vegetation, and under certain circumstances, human health;

i. Now, therefore, let it be resolved that the Town of Berthoud, which has the authority to protect natural resources and maintain a healthy environment for present and future generations, chooses to enact this outdoor lighting code.

4. **Definitions.** The following definitions apply to terms used in this Code:

a. **ANSI:** American National Standards Institute.

b. **ANSI/IES Lighting Standards:** Applicable outdoor lighting standards and metrics include but are not limited to outdoor retail spaces, outdoor sports and recreational areas, outdoor industrial areas, roadway and parking facilities, and outdoor pedestrian areas.

c. **ALAN (artificial light at night):** Light that is created from human technology, rather than a naturally occurring process. Also known as anthropogenic lighting.

d. **Candela (cd):** The unit of measure for luminous intensity.

e. **CCT (correlated color temperature):** The measured color appearance of light emitted by a light source described using a nominal value stated in kelvins (K). Lower CCTs (1800 K to 2200 K) appear very warm or amber. Medium CCTs (2700 K to 3000 K) appear "warm white," similar to standard incandescent bulbs. High CCTs (4000 K and higher) appear "cool white" or "blue."



f. **DarkSky Approved Outdoor Sports Lighting:** A standalone program put forth by DarkSky International to guide and/or certify sports lighting that meets stringent glare and *Light Trespass* requirements.

g. **Five Principles for Responsible Outdoor Lighting:** Co-authored and published by DarkSky International and the Illuminating Engineering Society: 1) Use light only if needed; 2) distribute light only where it is needed; 3) use light that is no brighter than needed; 4) control light so it is on only when needed; and 5) use warmer color light when possible.

h. **Fully Shielded:** A *Luminaire* designed or shielded in such a manner that no light is emitted, either directly or indirectly, at or above a horizontal plane running through the lowest light-emitting part of the luminaire.

i. **IES (Illuminating Engineering Society):** An *ANSI*-recognized Standards Development Organization. ANSI/IES Recommended Practices are universally recognized as authoritative references for lighting applications.

j. **Illuminance:** Measured in *Lux* or footcandles, the total luminous flux incident at a point on a surface.

k. **Light Level:** The maintained *Luminance* or *Illuminance* value.

l. **Light Pollution:** *ALAN* traveling into areas where it is not needed or wanted. This can be in the form of *Light Trespass*, glare, or atmospheric sky glow.

m. **Light Trespass:** *ALAN* illuminating past property lines without permission. Unless specified otherwise, light trespass limits are measured at any location along a property line both horizontally at the ground plane facing upward and vertically at 1.5 meters (5ft) above grade with the meter aimed toward the light source in question.

n. **Lighting Zones:** An ANSI/IES/DarkSky system describing the luminous environment and related lighting conditions based on land uses and expected tasks. These range from natural and intrinsically dark zones to very bright zones.

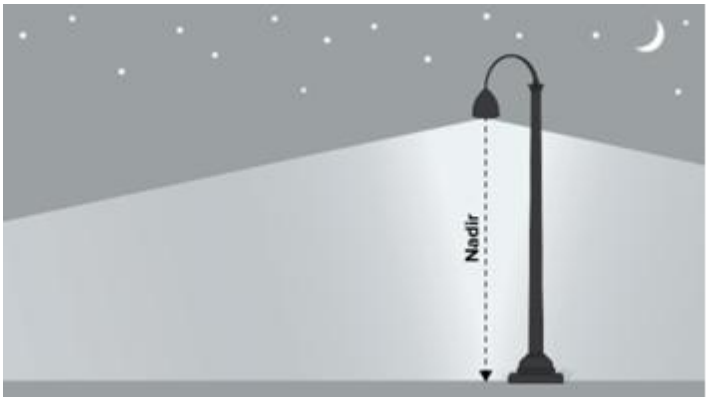
o. **Lumen (lm):** A unit of measure of the *luminous flux* of a light source.

p. **Luminaire:** A complete lighting unit, including the light source, housing, optics, electronics, and other necessary components for the purpose of providing outdoor illumination.

q. **Luminance:** The intensity of light emitted from a surface per unit area in a given direction.

r. **Lux (lx):** The SI metric system unit of measure for *Illuminance*. Measured as 1 lumen per square meter (3 square feet)

s. **Nadir:** A downward vertical vector directly beneath a luminaire, opposite to zenith.



t. **Nighttime Hours:** The time between [10] PM and sunrise, or 7 AM (whichever comes earlier). For businesses and events with operating hours later than [10] PM, nighttime hours will begin one hour after closing.

u. **Non-essential:** Lighting that is not directly associated with the physical safety of motor vehicle and pedestrian threats, including but not limited to: landscape lighting, illuminated signage, or advertising after business hours, façade lighting, vacant sports fields, and seasonal lighting.

v. **Residential Use:** Municipal zoning districts dedicated exclusively to places of low-rise (i.e., 3 stories or less) human residence and dwelling. Examples include single family, duplex, dual family, multi-family, apartment, townhouse, and mobile home. This does not include mixed-use or commercial districts with combined dwellings.

w. **Seasonal Lighting:** Outdoor or site lighting that is portable, temporary, decorative, and used in connection with holidays and traditions. This includes but is not limited to string lighting, icicle lighting, and lighted inflatables, none of which are intended for general illumination.

x. **Security Lighting:** Illumination used specifically to protect people, property, and infrastructure from criminal threat.

y. **Shielding:** A *Luminaire* design, optical intervention, or physical accessory (such as a louver) preventing light emission from traveling into a particular area, angle, or region.

5. Applicability

a. The lighting standards of this Chapter shall be applicable to all exterior lighting within the Town. All exterior lighting installed after the effective date of this ordinance codified herein shall conform to the standards established by this Chapter. The effective date of Ordinance 1336 for Oil and Gas regulations shall conform to the standards established by this Chapter. This code applies to all sources of outdoor lighting installed or replaced within the Town of Berthoud after enactment date. This includes, but is not limited to, newly permitted development and construction projects involving homes, dwellings, roadways, public right-of-way, signage, billboard, buildings, facilities, properties, landscape, parking lots, hardscape, non-habitable structures, and monuments.

b. Existing outdoor lighting lawfully installed prior to the adoption of these regulations and not meeting the requirements of this code shall be considered legal and repairable but non-conforming. All non-conforming Luminaires may continue to be used and maintained until one of the following occurs:

1. A determination by the Town of Berthoud that an outdoor light source constitutes a hazard to public safety or constitutes a nuisance.

2. When a property is re-zoned for a new land use, at which time all outdoor lighting on the property shall meet the requirements of this code before the new use commences.

3. A 10-year amortization period exists from the date the light code become effective to the date whereupon all lighting must conform to this Code.

6. **Exemptions**

a. Lawful: Lighting requirements mandated by a legal jurisdiction with broader authority (e.g., federal, state, or territorial) than the Town of Berthoud, including but not limited to:

1. Navigational lighting systems regulated by the Federal Aviation Administration and the US Coast Guard.

2. Any contradictory building code or Department of Transportation illumination requirements.

3. Lighting for worker safety as mandated by the Occupational Safety and Health Administration.

b. Safety: Luminaires installed for the benefit of public safety, including but not limited to:

1. Security Lighting as determined by a municipal official with authority.

2. Temporary lighting used by authorized first responders during emergency procedures.

c. Historic: Luminaires replicating time period historical character and lighting effect that are protected by historical registration, or otherwise permitted by an authority having jurisdiction.

d. Permitted: Temporary and semi-permanent lighting approved by municipal permit for special events, festivals, and community benefit, provided the permitted lighting still meets light trespass requirements and does not add further disruption to ecological migration or habitat.

e. Flags: Lighting of national, state, or local municipal flags that is shielded from the sides to a narrow beam of no more than 15 degrees. Nighttime illumination of other flags is not allowed. When possible, lowering and removing flags from sunset to sunrise is encouraged so illumination is not needed. The use of top of pole, downward-directed lights is encouraged.

f. Seasonal: Seasonal string lighting of a temporary nature is allowed between October 15 and March 15. Seasonal string lighting shall not create dangerous glare on adjacent streets or properties, shall be maintained in an attractive condition, and shall not constitute a fire hazard. Multicolored lighting is acceptable.

1. When seasonal lighting is white, it shall not exceed a CCT of 3000K.
2. Lightbulbs shall not exceed 3 inches in size.
3. Lighting shall be in a singular strand along no more than two (2) of the following features:
   i. The building roof eave line;
   ii. The building window trim;
   iii. Building columns; or
   iv. Railings.
4. Seasonal lighting is subject to the following curfew hours. During these times, all seasonal lighting shall be extinguished.
   i. Residential: 10:00 p.m. to 7:00 a.m.
   ii. Non-Residential: Curfew hours of 10:00 p.m. to 7:00 a.m. shall apply to all businesses unless normal operating hours end or begin within the hours of curfew. If so, the curfew applies until one (1) hour after closing or one (1) hour before opening.

7. Prohibitions

a. ALAN must not interfere with the safe movement of motor vehicles. Any lighting that distracts or disables the vision of a motor vehicle operator (e.g., excessively bright or rapid blinking, flashing, and/or motion video) or contributes to traffic control confusion (e.g., sources resembling or imitating traffic or railroad signals) is prohibited.

b. Beacons and searchlights, except for emergency use by authorized first responders.

B. Outdoor Lighting Requirements

1. **General**

a. Legal: All outdoor Luminaires and Luminaire installations shall comply with federal and state law; county and municipal codes; applicable energy and building codes; product safety labeling; the requirements of this [Code]; and shall be subject to the appropriate permit and inspection requirements thereof.

b. Light Level: Unless otherwise specified in this Code, lighting installed for an outdoor use shall not exceed 25% more than the Light Level recommended by the applicable ANSI/IES Lighting Standard, or a state approved alternate, as published by effective date.

c. Distribution: Unless otherwise specified in this Code, Luminaires emitting more than 1,000 Lumens shall be Fully Shielded and shall emit no more than 5% of their total Lumen output above 80 degrees from Nadir. Exceptions are:

1. Festoon string lighting where no individual lamp emits more than 50 lumens, and the lumen density of the string is no greater than 25 lumens per foot.

2. Directional Luminaires used for façade illumination which are shielded and aimed to hit their target such that the light is contained by architectural elements.

d. Trespass: Unless otherwise specified in this Code, Light Trespass shall meet the following:

1. Luminaire light sources shall not be visible from federal or state designated wilderness, natural area, habitat, or reserves, and Light Trespass shall measure no greater than 0.1 Lux.

2. Light Trespass onto Waters of the United States shall measure no greater than 1 Lux.

3. Light Trespass onto Residential Use property shall measure no greater than 1 Lux.

e. Curfew: Non-essential outdoor lighting, including but not limited to landscape and decorative lighting elements, shall be extinguished during Nighttime Hours.

1. When applicable, outdoor lighting shall dim or be extinguished during Nighttime Hours as prescribed by an adopted energy code.

f. Controls: Luminaires activated by motion detection shall automatically turn off or return to their dimmed state no more than [5] minutes after activity is no longer detected.

g. Spectrum: Unless otherwise specified in this Code, the maximum allowable correlated color temperature (CCT) for outdoor Luminaires is 3000 Kelvin.

1. Exception: CCT exemptions are allowed if a public safety need is documented.

2. Residential Use

The following requirements are supplementary to the General Outdoor Lighting Requirements (**Section 2.1** and its subsections) and shall further regulate outdoor lighting on Residential Use property:

a. Lighting for Residential Use, excluding roadway, parking, and public right-of-way, shall be exempt from the requirement in **Section 2.1(B)** provided no single Luminaire exceeds 1,000 lumens and the total installed lumens per dwelling are limited to:

1. No single Luminaire exceeds 1,000 lumens
2. Residential uses (1 unit only): 6,500 lumens per net acre
3. Residential uses (2 units or greater): 20,000 lumens per net acre

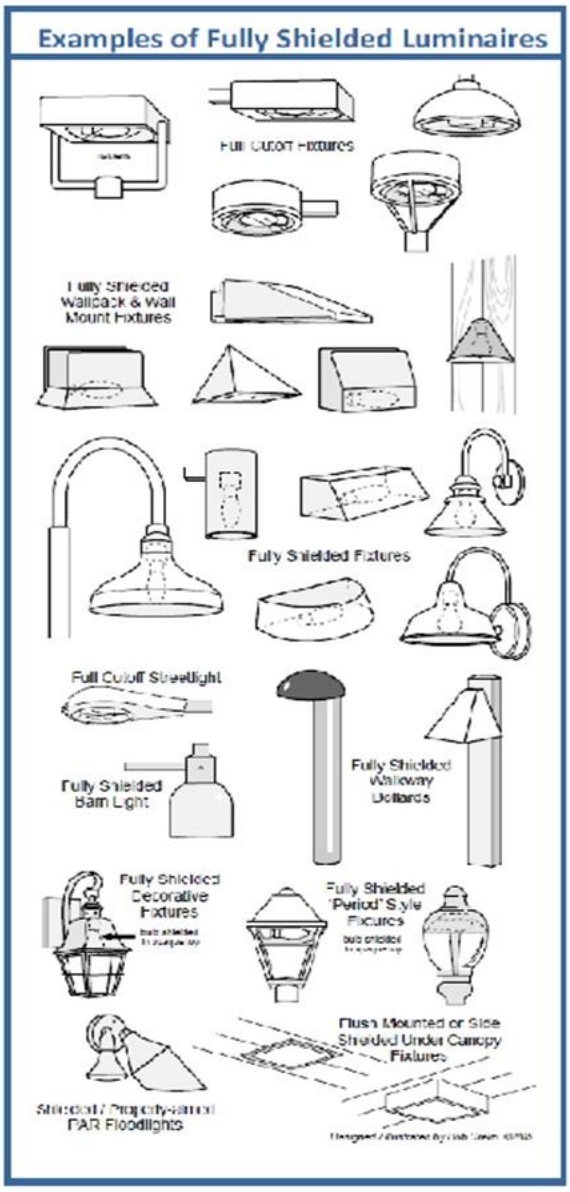
b. Light Trespass leaving Residential Use property shall be no greater than 1 Lux.

c. *Tree*, garden and landscape lighting is subject to curfew hours and shall be turned off between the hours of 10:00 p.m. and 7:00 a.m.

d. Pole Lights. Pole mounted lighting for multi-family common areas or any parking lot adjacent to a residential use are allowed up to twelve (12) feet from finished grade. This allowance shall not exceed light trespass limits.

e. When needed, Residential Use roadway Luminaires shall be a maximum 2400 Kelvin.

f. All area lights, including street lights and parking area lighting, shall have a maximum BUG rating of B2-U0-G1 according to the guidelines set forth by the Illuminating Engineering Society (IES) TM15-11. Examples of these luminaires can be found in example below:



3. Non-Residential Use

The following requirements are supplementary to the General Outdoor Lighting Requirements (Section 2.1 and its subsections) and shall further regulate outdoor lighting on non-residential property. The total allowable site lumens for nonresidential properties are based on the square footage of the facade and other elements of the developed structure, landscape buffer, and hardscape. A site shall calculate a maximum site lumen allowance by choosing a maximum of four (4) of the following lighting types and adding their limits:

a. Non-Residential Use lighting shall be exempt from the requirement in Section 2.1(B), provided there is no Luminaire installed on the property capable of exceeding a total output greater than 3,000 Lumens.

b. Building Entrance: 1,000 lumens per door. Luminaires shall be located within 20 feet of the door.

c. Building Facades: 10 lumens per square foot of building façade that is illuminated. Luminaires shall be aimed at the façade and capable of illuminating it without obstruction.

d. Nighttime Service Loading: 4,000 lumens per service loading door. Luminaires shall be located within 20 feet of the door.

e. Outdoor At-grade Parking Lot: 500 lumens per parking space. See 180-6.16.4.A. Parking Lot Lighting Standards.

f. Gas Station Canopy: 5,000 lumens per fuel pump. Each side of a two-sided pump qualifies for an allowance.

g. *Tree*, garden and landscape lighting is subject to curfew hours and shall be turned off between the hours of 10:00 p.m. and 7:00 a.m.

h. Outdoor Dining: 8 lumens per square foot of illuminated hardscape for outdoor dining. Luminaires shall be within 6 feet of the hardscape area of outdoor dining.

i. Pole Lights: Pole mounted lighting for non-residential parking lots is allowed up to twenty (20) feet tall from finished grade, provided it is not directly adjacent to residential property. This allowance shall not exceed light trespass limits.

j. Light Trespass leaving non-Residential Use property onto adjacent public right-of-way shall be no greater than 3 Lux when measured 20 feet past the property line.

k. Adaptive Controls and Curfews: All future non-Residential outdoor lightings will use adaptive controls and or lighting curfews to control and ALAN.

l. *Towers.* All radio, communication, and navigation towers that require lights shall have dual lighting capabilities. For daytime, the white strobe light will be used, and for nighttime, only red lights shall be used.

4. Security Lighting

Motion sensor lights shall be permitted if they are fully shielded and downcast per the requirements of this section. All motion sensor lights, or proposed security surveillance systems shall meet the following criteria.

a. Multi-Family residential and nonresidential common areas with increased density and activity may require increased illumination at primary points of entrances or exits. Light intensity shall not exceed 50 lux average at grade.

b. Shielded floodlights controlled by a motion sensor shall be limited to motion within the owner's property lines and turned off no more than five (5) minutes after such motion was detected.

c. Security lighting shall be properly installed/commissioned so it shall not be oversensitive to surroundings and be triggered repeatedly in an unreasonable or disruptive manner by naturally occurring causes (such as wind in foliage).

d. It is located in such a manner as to prevent glare and lighting onto properties of others or into the public right of way.

5. Signage

The purpose of the sign design standards is to promote a high level of quality and creativity, in keeping with the architectural goals and the character of Berthoud. The goal of the guidelines is also to encourage sign design that is eclectic, artistic, and original.

a. *Illumination*. The illumination of signs is intended to minimize the undesirable side effects of excessive illumination such as glare, sky glow, and light pollution. The following standards shall apply to sign illumination:

1. *Light Source.* All exterior sign lighting shall be fully shielded and down-directed so that light is directed only onto the sign face and not aimed at the sky, adjacent streets, roads, or properties. All upward-directed sign lighting is prohibited.
2. *Luminance levels*. Luminance levels for signs shall not exceed 100 nits (100 candelas per square meter) between sunset and sunrise, as measured under the conditions of a full white display.
3. During the first hour after sunset and during the last hour immediately preceding sunrise, sign luminance shall not exceed 100 nits (100 candelas per square meter, cd/m2)
4. Signs may only be illuminated while the associated activity is taking place; for businesses, sign illumination must be extinguished completely during the hours the business is closed.
5. The luminous or illuminated surface area of an individual sing must not exceed 18.6 square meters (200 square feet).
6. *Curfew.* Sign illumination shall be extinguished completely one (1) hour after sunset or one-half (1/2) hour after the end of normal business hours, whichever is later, and remain off until at least one (1) hour before sunrise.
7. *Adaptive controls.* Sign lighting shall be controlled by a light sensor, timer, or equivalent system in order to properly adjust the sign luminance and minimize the duration of illumination. Should an electronic problem prevent normal function, the sign shall default to night mode or remain unlit.
8. *Component Painting.* All light fixtures, conduit, and shielding must be concealed and shall be painted to match either the building or the supporting structure that serves as the background of the sign.
9. *Externally Illuminated Signs.* Externally lit signs shall be illuminated only with steady, stationary, shielded light sources directed solely onto the sign without causing glare. Light bulbs or lighting tubes used for illuminating a sign shall be simple in form and should not clutter the building or structure. Light bulbs or lighting tubes should be shielded so as to not be physically visible from adjacent properties and public rights-of-way.
10. *Internally Illuminated Signs.* Internally illuminated signs with light colored backgrounds, including, but not limited to, white, off-white, light gray, cream and yellow are discouraged.
11. *Fixtures.* Lighting fixtures shall be simple in form and should not clutter the building. The fixtures must be directed only at the sign. Lighting for front lit signs shall be housed in fixtures and installed in a manner that will serve to substantially shield exposed bulbs and lighting tubes from public view. Gooseneck or other building mounted fixtures are encouraged.

6. Sports Lighting

The following requirements are supplementary to the General Outdoor Lighting Requirements (Section 2.1 and its subsections) and shall further regulate outdoor lighting for sports and recreational areas to provide essential requirements for safe play and light trespass mitigation. Following ANSI/IES RP-6 guidelines.

a. Lighting for sports and recreational areas shall also meet the following requirements:

1. Eighty-five percent (85%) of the lumens generated by sports lighting luminaires shall be confined to within 10 meters (33 feet) or a distance of one pole height, whichever is greater, of the playing field or the spectator track or bleacher area, whichever is greater.
2. Lighting installations for aerial sports are allowed a maximum of 8% of the total lumen output to be emitted above 80 degrees from Nadir.
3. When the recommended sports field Light Level is higher than 100 lux, installed lighting shall not exceed 10% more than the Light Level recommended by the applicable ANSI/IES lighting standard, or a state approved alternate, as published by the effective date.

4. The maximum CCT for outdoor sports lighting should be the lowest possible for the sport, class of play, and viewing audience as defined by the relevant ANSI/IES lighting standard, or any state approved alternative, but never exceeding 5700 K.

5. The maximum luminous intensity from any luminaire lighting a sports field shall not exceed 10,000 candelas (cd) as measured along a perimeter that is 46 meters (150 feet) from the edge of the field, at 1.5 meters (5 feet) above grade

6. A 10 pm curfew exists for all sports and recreational outdoor field lighting, or one hour after play ends.

7. Timers shall be install for all sports and recreational outdoor lighting to prevent lights being left on overnight.

C. **Administrative Requirements**

1. **Permit Application**

a. Submittal: Whenever a building, subdivision, site plan, or outdoor lighting permit is applied for, an outdoor lighting plan must be submitted along with a compliance statement that the proposed work will comply with all code requirements. All applications for building permits or land use planning review which include installation of outdoor lighting fixtures shall include lighting plans conforming to the provisions of this Section. Town staff has the authority to request additional information in order to achieve the purposes and intent of this Section.

The outdoor lighting plan must follow one of the following:

1. The submittal shall contain the following information and be submitted as part of the site plan to the Planning and Building departments for approval.

i. Plans indicating the location, type, intensity, and height of luminaries including both building and ground-mounted fixtures;

ii. A description of the luminaries, including lamps, poles or other supports and shielding devices, which may be provided as catalogue illustrations from the manufacturer;

iii. Photometric data, such as that furnished by the manufacturer, showing the angle of light emission and the foot-candles on the ground. Area and roadway lighting requires compliance with the BUG rating with this data; and

iv. Additional information as may be required by the Town in order to determine compliance with this Chapter.

b. Review: Submitted spreadsheets, site lighting plans, and compliance affidavits shall be subject to review and approval by the administrator, or designee. The administrator shall have the authority to refer an application to the planning and zoning commission or the historic commission if deemed appropriate.

c. Appeals: Any appeals related to decisions regarding outdoor lighting shall be made to the administrator, or designee.

2. Enforcement and Penalty

a. Enforcement: Unless otherwise noted in this code, the administrator, or designee, shall be responsible to implement, administer, and enforce this code, including investigations of alleged violation. A private right of action may also constitute enforcement of the requirements within this code.

1. The administrator charged with enforcing this chapter shall have the authority to grant partial waiver of specific code requirements for up to one year if a property owner demonstrates that

compliance creates unreasonable hardship, as balanced against the potential impacts of non-compliance, or results in conditions that are materially detrimental to health, safety or welfare.

b. Penalty: Any property owner that does not meet the requirements of this code shall be in violation. A person, firm, or corporation found to have violated, disobeyed, omitted, neglected, or refused to comply with any provisions of this code shall be issued a notice and administrative citation as provided by the municipal code. Any person, firm, or corporation found to have violated any portion of this code shall correct the violations within ninety (90) days of the citation date. Each day a violation continues beyond ninety (90) days of the citation date without having been corrected shall be a separate offense.

c. Private Action: Any person adversely affected by lighting that does not meet the requirements of this code shall have a private cause of action for nuisance against the person, firm, or corporation responsible for such lighting.

30-6-120 Environmental considerations

A. *Intent*. The intent of this section is to ensure that new development limits or mitigates impact to environmentally sensitive areas.

B. *General provisions*.

1. *Protection of environmentally sensitive areas as defined in this Chapter*. Development shall be designed to ensure that disturbances which occur to any environmentally sensisive area as a result of development shall be minimized through the use of natural buffer zones. If any development materially disturbs aa ESA, the development project shall mitigate such lost natural resource either on — or off-site and any such mitigation shall be roughly proportional to the loss suffered as a result of the disturbance as approved by the Town.

a. A buffer zone shall be required between proposed development and environmentally sensitive areas to ensure that the proposed development does not degrade the natural area. The size of the buffer zone shall a minimum be 150 feet, as determined by the Town which may choose to consult with other agencies or individuals. The Town may decrease this buffer when strict application of this subsection can be proven to impose an exceptional hardship upon the property owner and appropriate mitigation measures approved by the Town are taken.

b. *Exceptions*. The Board may allow disturbance or construction activity within the environmentally sensitive area or buffer zone for the following limited purposes: mitigation of development activities, restoration of previously degraded areas, emergency public safety activities and utility installations when such activities and installations cannot reasonably be contained within other nearby developed areas, construction of a trail that will provide public access for educational or recreational purposes, or the enhancement of the habitat value and/or other natural resource values of an environmentally sensitive area.

c. *Ecological characterization*. If the Town determines that the site likely includes areas with wildlife, plant life, and/or other natural characteristics in need of protection, the Town may require the developer to provide a report prepared by a professional qualified in the areas of ecology, wildlife biology, or other relevant discipline. The ecological characterization report should be included with the open space plan and describe the following:

i. The wildlife use of the natural area showing the species of the wildlife using the area, the times or seasons the areas is used by those species and the "value" (meaning feeding, watering, cover, nesting, roosting, perching) that the area provides for such wildlife species;

ii. The boundary of wetlands in the area and a description of the ecological functions and characteristics provided by those wetlands;

iii. Any prominent mountain or lake views from or across the site;

iv. The pattern, species, and location of any significant native trees and other native site vegetation;

v. The bank, shoreline and high water mark of any perennial stream or body of water on the site;

vi The boundary of any floodplain and floodway and a description of the ecological and flood control functions and characteristics provided by these designations.

vii. Wildlife travel corridors, and

viii. The general ecological functions provided by the site and its features.

d. *Wildlife conflicts*. If wildlife that may create conflicts for the future occupants of the development are known to exist in areas adjacent to or on the development site, then the development plan must, to the extent reasonably feasible, include provisions to minimize conflicts that might occur between such wildlife and the developed portion of the site.

30-6-121 Sustainability

A. *Intent*. The intent of this section is to ensure that the Town encourages the integration of sustainable practices in development in the community. These include: solar power and solar access, alternative storm water management practices and alternative street widths as appropriate. Compliance with nationally certified energy efficiency programs including the "Energy Star" program is encouraged in order to help ensure the long-term sustainability of the Berthoud community. Comparable non-certified energy efficiency standards are also acceptable.

B. *General provisions*.

1. Developments shall consider the use of raw or non-potable water for irrigation. Any non-potable spray irrigation system must be managed to minimize odors that may occur during spray irrigation.

2. Developments shall incorporate water-saving measures into both building and landscaping design.

3. Developments shall investigate the use of alternative storm water management techniques that address both water quality and quantity.

30-6-122 Sanitary sewer

All residential, commercial and industrial uses which have human occupancy shall have sanitary sewer. The sanitary sewer system shall be connected to an existing public sanitary sewer system and shall consist of a closed system of sanitary sewer mains and lateral branch connections to each structure or lot upon which a structure is to be built. Sanitary sewer lines are to be of sufficient size and design to collect all sewage from all proposed or portable structures within the subdivision or development. All sanitary sewer system design and construction must conform to the Town of Berthoud Engineering and Infrastructure Standards and Construction Specifications as the same may be amended from time to time.

30-6-123 Potable water

All residential, commercial, and industrial uses which have human occupancy, shall have potable water served by the Town or appropriate water district. The water system shall be of sufficient size and design to supply potable water to each structure or lot upon which a structure is to be built. All potable water system design and construction must conform to the Town of Berthoud Engineering and Infrastructure Design Standards and Construction Specifications as the same may be amended from time to time.

30-6-124 Storm water drainage facilities

1. *Intent*. To promote innovative and effective land and water management techniques that protect and enhance water quality. Regional storm water detention facilities meeting provisions of the Town of Berthoud Master Storm Water Plan, as amended, may be part of any overall storm water plan for a particular development.

2. *Urban Drainage Design Standards*. All storm water facilities shall be designed per the Urban Drainage Design Standards, as amended.

3. *Water Quality Standards*. All storm water facilities must be designed in order to meet or exceed the Larimer County, Colorado standards, as amended, for water quality.

4. The Town supports staged, or timed, storm water detention and release as long as appropriate studies and documentation are completed and approved. These studies would include a Basin Study for the applicable area.

5. *General provisions*.

    a. All storm water drainage facilities shall be appropriately landscaped. Landscaping associated with storm drainage facilities shall be integrated into the overall design of the project.

    b. Storm drainage facilities shall enhance the overall appearance of the project, prevent erosion and improve water quality of storm water runoff whenever possible.

    c. Storm drainage facilities may function as open space for active recreation, trail corridors or habitat enhancement areas if they are designed appropriately and approved by the Town.

    d. The use of planting strips and shallow landscaped depressions (bio-swales) in parking lots and along roads may be utilized to help trap and remove pollutants from storm water runoff.

6. *Minimum requirements*.

    a. All facilities shall be seeded to grass appropriate to the function of the area. Areas to be maintained for habitat enhancement shall be seeded to native grasses and wildflowers. Developer is responsible for establishment of a complete, weed free stand of grass. Trail corridors may be seeded to native grasses if appropriately integrated with adjacent improvements. Areas to be used for active recreation shall be seeded to a turf type mix or other drought tolerant grass acceptable to the Town and irrigated with a permanent irrigation system.

    b. Maximum side slope on drainage facilities shall be 4:1, minimum slope of the bottom of a drainage facility shall be one-half percent.

    c. Landscape improvements shall be designed to enhance the function of the facility. Areas designed for recreation shall include clusters of trees to provide shade, located so they do not impair the function of the facility.

    d. Habitat and water quality enhancement including wetland plantings in low wet areas is encouraged.

7. *Ownership and maintenance*.

    a. All drainage facilities shall be owned and maintained by the landowner or occupant unless otherwise approved by the Town.

8. *Storm water drainage fees set by Resolution*.

    a. Storm water drainage fees are set by the Board of Trustees and are charged based on the square footage of impervious surface on a given property.

9. *Properties exempt from storm water drainage fees*.

    a. The following properties are exempt from the imposition of storm water drainage fees:

i. All public park land;

ii. All public or private ponds, lakes, reservoirs, rivers, creeks, natural water courses, wetlands or irrigation ditch/canal rights-of-way;

iii. All public streets, highways, rights-of-way and alleys;

iv. All railroad rights-of-way except railroad property not utilized for railroad purposes;

v. All cemeteries; and

vi. All lands actively used for agriculture and larger than two acres in size.

30-6-125 Fire hydrants

The developer or builder of any subdivision shall install fire hydrants at street intersections and at other points as per the requirements of the Berthoud Area Fire Protection District and the Town of Berthoud.

30-6-126 Project specific master plans

A. Each applicant shall submit and receive approval of separate drainage and utility master plans for their project. Said master plans shall be prepared in conformance with the applicable Town master plan and the appropriate reference criteria manual. The intent is that these documents be reviewed, modified as appropriate and approved as completed preliminary documents. These documents then can be expanded to provide more detail, design documentation and to describe any refinements at the final report stage. These reports must address immediate, phased development (if any) and full buildout aspects of utility and drainage handling. They must address short and long term impacts and the need for any additional common use municipal facilities. The utility plan must specifically address the load (conveyance and treatment) placed on municipal facilities and must document acceptance by the respective enterprises of their willingness to satisfy these loads.

30-6-127 Project construction documents

Intent. The design and construction of infrastructure improvements is the responsibility of the developer. The design must be documented in writing, should be made part of the final drainage or utility master plan as appropriate, and should be reflected in the construction documents. The construction documents are typically done as one package with distinctive sheets dedicated to utilities and drainage and a common set of specifications. These construction documents must be prepared to a condition of completeness suitable for competitive bid even if competitive bidding is not utilized. The plans and specifications can be separately bound or, in the case of a minor subdivision, for example, the specifications can be made on the drawings. Specifications must follow CSI or another commonly accepted industry standard and technical referrals must be to current standards.

30-6-128 Water and wastewater line extension policy

A. *Statement of purpose*. It is the purpose of this policy to provide a fair and equitable distribution of the costs of installing water and wastewater lines to all the parties benefiting from their installation. This policy covers most cases, but recognition is made that special cases may occur. When special cases do occur, deviations may be made from the specifics of the policy, provided the final arrangements maintain this fair and equitable intent. Such arrangements can be made through the mutual consent of the Town Administrator and the developer of the property. Such arrangements shall be contained in a development agreement executed by the developer and the Town. This ordinance shall be interpreted and enforced to ensure that a development will pay all direct costs and their proportionate share of indirect costs.

B. *Line installation policy*. In order to facilitate the orderly continuation of the Town's water distribution and wastewater collection systems, water and wastewater mains shall be installed to the furthest point or points of a property. The developer shall install lines on more than one side of the property and/or through more

than one internal easement or right-of-way if it is determined that those lines are needed to provide service to other properties beyond the subject property.

C. All mains which are necessary for the service to or within a property or as required above, shall be installed ate the cost of the developer, except for the following conditions:

1. Mains larger than those required to serve the property but required by the Town shall be subject to the provisions of this Code.

2. Prior to construction, plans and specifications for the water and wastewater systems to be installed shall be reviewed and approved by the Town Administrator after consultation with the appropriate engineering and other appropriate staff.

D. The developer shall be responsible for payment of the Town's review, inspection and associated costs. Such costs shall be in accordance with the actual costs. Payment of such costs shall be made prior to acceptance by the Town of the improvements by the Town.

E. Upon completion of the work and written acceptance by the Town the water distribution and wastewater collection systems shall become the property of the Town.

F. The Town shall own and maintain the water mains, water main appurtenances, and fire hydrants and appurtenances therein. The property owner shall maintain the service line attachment to the main line, meter, meter pit, vaults and all other appurtenances from the main line. For fire service lines the Town's ownership ends at the valve on the main or the point of connection to the last domestic service off the line.

G. The Town shall own and maintain the wastewater mains, manholes and regional wastewater lift stations. The property owner shall maintain the wastewater service line and attachment to the main line. Where a lift station is built to provide service to a specific development or area the Town may either establish a special monthly assessment to cover maintenance, overhead and depreciation or require a property owners' association to cover these costs.

H. All workmanship and materials shall be warranted in writing by the developer against any defects for a period of one year from the date of acceptance by the Town. Any repair or reconstruction performed during such warranty period as a result of defects in material and/or workmanship shall be warranted for a period of one year from the acceptance of such repair or reconstruction by the Town.

I. Properties which are served by private lines that were not constructed according to Town approved plans and specifications shall have mains complying to Town standards installed and extended to serve the property. The cost thereof shall be paid by the owners served, or assessed against the owners in accordance with applicable laws.

J. No mains shall be extended outside the Urban Service Area, except as may be necessary to serve the property within the Town or upgrade service to existing customers, without the prior express written consent and approval of the Board of Trustees.

30-6-129 Reimbursement policy and procedure

A. *Reimbursement for line extension through undeveloped property*. In accordance with the Comprehensive Plan, development is encouraged in areas directly adjacent to the Town. In the event a development is not located adjacent to the Town a developer may find it necessary to install a water or wastewater lines through undeveloped property to obtain service. Such person may request the establishment of a reimbursement agreement to recover a portion of the line installation costs from subsequent future development along the line.

1. The establishment of a reimbursement agreement is optional and must be requested by the developer prior to construction of the line.

2. The developer shall obtain three independent written quotes or bids for the line. The lowest bid shall be the bases for establishing a reimbursable amount, regardless of whether the low bidder performs

the work or not. The quotes or bids shall be obtained for doing the work in a reasonable but not an accelerated time period.

3. The reimbursable amount shall not be increased or decreased to reflect fluctuations in construction costs and shall not be increased for interest or decreased for depreciation. The date of the construction quote or bid shall establish the initial index value.

4. The reimbursement agreement shall expire after a period of ten years from the acceptance of the line unless extended in writing by the Board of Trustees.

5. Reimbursement payments shall be due and payable prior to the installation of any service or line extension to the undeveloped parcel.

6. If the line is installed through or adjacent to more than one property, the future developers shall pay for their proportional share based on the usage of the line generated through their property.

B. *Reimbursement for line extension through previously developed areas*. A developer may find it necessary to replace and existing undersized or otherwise inadequate line to obtain service. The developer may be eligible to establish a reimbursement agreement in the following cases:

1. If a property adjacent to the replacement line had a tap on the original undersized line and is later subdivided, the developer of this second property shall reimburse the original developer an amount determined pursuant to the provisions of this ordinance. To be eligible for such reimbursement, the developer must establish a reimbursement agreement as provided in this Code.

2. If the line to be replaced is in such a condition or configuration that it would in the opinion of the Town Administrator be eligible for replacement, the Town may pay the portion of the cost that it would incur to replace or upgrade the line as calculated, subject to fund availability. Such Town participation shall be administered in accordance with this Code.

C. *Reimbursement for major structures*. A developer may find it necessary to install a major structure to obtain water or wastewater service. The developer may be eligible to establish a reimbursement agreement.

1. A reimbursement agreement may be established if the major structure is a component of the water distribution or wastewater collection system that will bring direct benefits to an identifiable area. Examples are:

a. Wastewater lift stations;

b. Water booster pump stations;

c. River or highway crossings.

2. The cost of the utility line or structure required by the project itself shall be paid by the Developer. The cost of the remainder of the utility line required by the Town shall be paid by the Town.

3. To be eligible for reimbursement, the developer shall establish a reimbursement agreement as provided in this Code.

30-6-130 Line oversizing policy

A. *General*. The purpose of the line oversizing policy is to enable a developer to recover the costs incurred to install an oversized water or wastewater line. The "oversized" portion is the difference between the line size required by the property and the line size required by the Town to meet future growth demands. The developer is required to bear the full costs for installing eight-inch wastewater lines, or larger if required to serve that development, and for installing all water lines six inches in diameter, or larger if required to serve that development.

B. *Line sizing*. The actual size of the water or wastewater line required shall be initially established by the developer with supporting documentation to verify that the sizes of the water or wastewater lines, or both,

meet the Town's specifications. Final evaluation and design shall be determined by the Town. Criteria to be used for this determination shall include, but shall not be limited to the following:

1. Utility Master Plan requirements.
2. Potential future demand on the water or wastewater system as related to the proposed development.
3. Hydraulic design criteria of the water or wastewater system.

C. *Town participation in oversizing project*. The Town may require a developer to install an oversized water or wastewater line. If an oversized line is required, the Town will participate in the project costs if the oversizing is required to provide service to the Town's existing customers.

D. *Developer reimbursement*. When the Town requires a developer to oversize either water or wastewater lines to meet the needs of anticipated development, the developer may request the Town to enter into a reimbursement agreement. The agreement may provide that the developer will be reimbursed the cost of the required oversizing from future developments which make use of the oversizing. The reimbursement agreement shall expire upon repayment to the developer of the oversizing costs or the expiration of ten years from the completion of the installation.

E. *Determination of eligible project costs*.

1) Only those components of the water or wastewater line project that are specifically related to the oversizing shall be included for oversizing participation. Eligible costs include those costs to furnish and install the oversized pipe, fittings, valves and service saddles. The costs for design installation, service lines, manholes, surface repairs and connected lines and appurtenances are not eligible. Wastewater manholes will be included if larger than a four-foot diameter manhole is needed because of the wastewater line size.

2) *Construction quotes*. If the developer is aware that there will be oversizing required and that the cost of the oversizing is less than $5,000.00, the developer shall obtain a minimum of three written quotes from qualified contractors for construction of the oversized line. The quotations shall be based on construction of the line in a reasonable but not an accelerated time period. The Town and the developer shall agree on a reasonable time frame to be included in the request for quotations. The lowest quote shall be the basis for determining eligible oversizing costs.

3) *Competitive bids*. If the cost of the oversizing is estimated to be greater than $5,000.00, the developer shall obtain competitive bids for the construction of the oversized line, in accordance with the State laws and Town procedures for capital projects. The bids shall be based on construction of the line in a reasonable but not an accelerated time period. The Town and the developer shall agree on a reasonable time frame to be included in the request for quotation. The Town and the developer have the right to reject any and all bids, for cause.

4) *Determination of final costs*. The developer's engineer shall submit to the Town a summary of the final eligible project costs. The final costs shall be based on the lower of the actual installation costs or the bid received for the project.

F. *Water and wastewater development agreement*. If the Town agrees to participate in an oversizing project, the developer shall prepare a Water and Wastewater Development Agreement which will include:

1. An estimate of the oversized line project costs, prepared by a Professional Engineer. Itemization of the cost estimate shall be attached to the agreement.
2. Distribution of project costs between the Town and the developer.
3. Time schedule or phasing plan(s) which the developer agrees to comply with.
4. Any reimbursement agreements between the developer and future developers along the oversized line.

5. The Water and Wastewater Development Agreement shall be reviewed and signed by the Utility Superintendent, the Town Attorney, and the Developer.

30-2-131 Non-Potable Water Systems

1. *Title.* This section shall be known as the Town Of Berthoud Non-Potable Water Systems Regulations.

2. *Interpretation.* This chapter shall be interpreted and construed so as to effectuate its general purposes to make uniform the terms and conditions for the development and use of non-potable water systems. However, this chapter shall not be applied in a manner inconsistent with annexation agreements in existence prior to the effective date hereof.

3. *Size and Design Standards*. All non-potable water systems shall be of sufficient size and design to supply non-potable water to the lands to be irrigated with said system. All non-potable water system design and construction must conform to Denver Water Engineering Design and Construction Standards as amended, as applicable to non-potable water systems.

4. *Approvals of Non-Potable Water System.*

   A. *Applications*. The person developing the property who wishes to utilize a non-potable irrigation system shall provide a Non-Potable Water Irrigation System Plan to the Town, which plan shall include the following information:

      (1) The proposed manner of delivery, including duration and volume of water;

      (2) The reliability of the system;

      (3) The plan for system maintenance and the entity to be responsible for such maintenance;

      (4) The proposed manner in which the non-potable water irrigation system will be connected to the Town's treated water system so that treated water can be used for irrigation when the supply of non-potable water is unavailable or insufficient including, but not limited to backflow devices;

      (5) A calculation of the volume of water which a non-potable system will be able to provide on a monthly basis;

      (6) The amount and location of water storage as necessary to provide water from the non-potable water system;

      (7) The analysis required by the Town of Berthoud Development Code Design Standards Section; and

      (8) Such other analysis as the Town deems necessary.

   B. *Approval*. The person who wishes to utilize a non-potable water system shall pay for an analysis by the Town through a qualified engineer to review the Non-Potable Water Irrigation System Plan containing the information set forth in Section 4(A) above. No non-potable water systems shall be utilized without written approval from the Town.

SECTION 7 SIGNS

30-7-101 General provisions

A. *Purpose.* The regulations in this Section are intended to coordinate the use, placement, physical dimensions, and design of all signs within the Town. These regulations are established to safeguard the health, safety, convenience, order and welfare of all residents of the Town. The Town recognizes that signs may act as a visual means of communication between the public and businesses and those businesses have an expectation of using signs to identify and advertise themselves. In addition, the purpose of these regulations is to:

1. Recognize that signs are a necessary means of visual communication for the convenience of the public and provide flexibility within the sign review/approval process to allow for unique circumstances and creativity.
2. Recognize and ensure the right of those concerned to identify businesses, services and other activities by the use of signs, and not limit signs which are accessory and incidental to the use on the premises where such signs are located.
3. Provide a reasonable balance between the right of an individual to identify their business and the right of the public to be protected against the visual discord resulting from the unrestricted proliferation of signs and similar devices.
4. Protect the public from damage or injury caused by signs that are poorly designed or maintained.
5. Ensure signs are well-designed and contribute in a positive way to the Town's visual environment, express local character, and help develop a distinctive image for the Town of Berthoud.
6. Encourage signs that are responsive to the aesthetics and character of their particular location, adjacent buildings and uses, and the surrounding neighborhood. Ensure signs are compatible and integrated with the building's architectural design and with other signs on the property.
7. Ensure signs are appropriate for the type of street on which they are located.
8. Ensure signs adhere to the Town’s Dark Sky regulations.
9. Enhance property values and business opportunities.
10. Assist in wayfinding.
11. Provide fair and consistent permitting and enforcement.

B. *Intent.* It is the intent of these regulations to provide for the proper control of signs in a manner consistent with the First Amendment guarantee of free speech. It is not the intent of these regulations to regulate signs based on the content of their messages. Rather, these regulations advance important, substantial, and compelling governmental interests.

1. The incidental restriction on the freedom of speech that may result from the regulation of signs hereunder is no more than is essential to the furtherance of the important, substantial, and compelling interests that are advanced by these regulations.
2. The Town has an important and substantial interest in preventing sign clutter (which is the proliferation of signs of increasing size and dimensions as a result of competition among property owners for the attention of passing motorists and pedestrians), because sign clutter:
    a. Creates visual distraction and obstructs views, potentially creating a public safety hazard for motorists, bicyclists, and pedestrians;
    b. May involve physical obstructions of streets or sidewalks, creating public safety hazards;

c. Degrades the aesthetic and essential historic character of the Town, making the Town a less attractive place for tourism, commerce, and private investment; and

d. Dilutes or obscures messages displayed along the Town's streets through the proliferation of distracting structures and competing messages.

3. The Town has a substantial and/or compelling interest in preventing traffic accidents.

4. The Town has a substantial and/or compelling interest in preventing negative impacts associated with temporary signs. Temporary signs may be degraded, damaged, moved, or destroyed by wind, rain, snow, ice, and sun, and after such degradation, damage, movement, or destruction, such signs harm the safety and aesthetics of the Town's streets if they are not removed.

C. *Relationship to other regulations.* The provisions of these regulations shall apply to the display, construction, erection, alteration, use, maintenance, and location of all signs within the Town.

1. Nothing contained in this Section shall be deemed a waiver or variance of the provisions of any other provisions of the Development Code as applicable to signs.

2. If any provision of this Section conflicts with any other adopted Town code that regulates signs, the more restrictive standard shall apply provided, however, to the extent an approved, unexpired and currently effective Planned Unit Development as described in Section 30-3-104 R *Planned Unit Development (PUD) Overlay District* includes specific sign allowances and/or restrictions that directly conflict with these regulations, the approved PUD regulations shall apply to the extent of the conflict. In lieu thereof, the property owner may elect to fully comply with these regulations in the area of the conflict.

3. The Town recognizes other regulations pertaining to signage (i.e., State of Colorado, Department of Highways, "Rules and Regulations Pertaining to Outdoor Advertising," effective January 1, 1984, and as may be amended).

4. The content of signs related to marijuana businesses is restricted by state laws and regulations, and both the advertising and sale of marijuana are prohibited by federal law. The Town has no authority to supersede state or federal marijuana laws.

5. Nothing in this Section shall be construed as a defense to a violation of applicable state or federal law.

6. Where any provision of this Section covers the same subject matter as other Town, state or federal regulations, the more restrictive regulation shall apply.

30-7-102 Sign permits

A. *Sign permit required*. To ensure compliance with the regulations of this Section, a sign permit shall be required in order to erect, move, alter, reconstruct or repair any permanent or temporary sign, except signs that are exempt from permits under Section 30-7-103 *Exempt signs*.

1. In multiple tenant buildings, a separate permit shall be required for each business entity's sign(s).

2. Separate building and electrical permits may be required for signs and will be determined on a case-by-case basis.

3. Changing or replacing the copy on an existing sign shall not require a permit.

B. *Comprehensive sign plan.* A comprehensive sign plan is required as a part of the development review process for all commercial projects with multiple lots or buildings or multiple tenants. Comprehensive sign plans are also required for all new signs on multiple tenant buildings or centers with multiple lots.

1. For any multi-tenant center, industrial park or other unified form of commercial site development or redevelopment, the applicant shall submit a comprehensive sign plan with a sign permit application that consists of coordinated and/or shared signage for the entire development.

2. A comprehensive sign plan shall be in accordance with the following criteria:

    a. Signs shall meet the design criteria established in Section 30-7-106 *Sign design*.

    b. After reviewing an applicant's submittal of a comprehensive sign plan, the Manager may vary standards for area, height and number of individual signs during sign permit review.

    c. The Manager may approve up to a twenty percent (20%) change in one or more dimensional or numerical standards based on the applicant demonstrating the change is warranted by a comprehensive sign plan which represents exceptional design.

C. Applications for sign permits shall be made in writing on forms furnished by the Town. The application shall contain:

1. The location by street number of the proposed sign structure;

2. Names and addresses of the owner and the person or company erecting the sign;

3. Legible site plans which include the specific location of the sign and setbacks to adjacent property lines and buildings;

4. A detailed drawing indicating the dimensions, materials, and colors of the proposed sign structure. A certification by a registered professional structural engineer may be required by staff for a monument or projecting sign;

5. A description of the lighting to be used, if applicable and a narrative detailing how the proposed lighting will be compliant with the Town's Dark Sky regulations;

6. If the sign is to be located off the premises in compliance with Section 30-7-111 *Off-Premise sign standards*, a written lease or permission from the property owner of the site on which the sign will be located; and

7. Sign permit fee as established by the current fee schedule.

D. *Staff review and approval.*

1. Within five days of the receipt of a completed application, staff shall either certify the application is complete and in compliance with all submittal requirements or reject it as incomplete and notify the applicant in writing of any deficiencies. The applicant shall address deficiencies and resubmit application materials.

2. When staff has determined the application to be complete, staff shall review the sign permit in accordance with the established review criteria and has the authority to approve, approve with conditions or deny the sign permit. Upon staff's approval of the sign permit, the sign permit and any building or electrical permits required for the sign shall be issued to the applicant.

E. *Review criteria*. The following review criteria will be used by the Town to evaluate all sign permit applications:

1. Sign meets the requirements of this Section;

2. Sign conforms to the requirements of the building and electrical code;

3. Sign conforms to the size, height, material and location requirements of the Zoning Code for the zoning district in which it is located;

4. Sign would not interfere with pedestrian or vehicular safety;

5. Sign would not detract from the character of an architecturally significant or historic structure;

6. Sign would not be located so as to have a negative impact on adjacent properties;

7. Sign would not detract from the pedestrian quality of a street or area, if applicable;

8. Sign meets the Town's Dark Sky regulations;

9. Sign would not add to an over-proliferation of signs on a property or area; and

10. Sign structure and location are consistent with the purpose and intent of this Section.

F. *Appeal*. Any appeal of Town's denial of a sign permit or approval with conditions shall be made to the Board of Adjustment as provided in Chapter 30, Section 3: Zoning, of the Development Code.

30-7-103 Exempt signs

A. *Exemptions from required sign regulations*. The following types of signs are exempt from permit requirements of this Section and may be placed in any zoning district subject to the provisions of this Section. Such signs shall otherwise be in conformance with all applicable requirements contained in this Section. All such signs (except public signs) shall be located outside a street right-of-way. Signs shall not interfere with traffic signs or the sight distance triangle at intersections. Evidence of permission to install a sign may be required as the Town investigates compliance with this Section. All other signs shall be allowed only with permit and upon proof of compliance with this Section.

1. *General*. Signs that are not visible from any public thoroughfare or right-of-way, except that such signs shall be subject to the safety regulations of the adopted version of the Uniform Building Code and all other Codes (electrical, mechanical, etc.) governing building construction in the Town.

2. *Bulletin board.* Bulletin board signs not exceeding 12 square feet in gross surface area accessory to a religious institution, school, or other public or nonprofit institution.

3. *Site sign*. Site signs as defined in Sec. 30-1-116 *Definitions* and subject to the standards in Section 30-7-110 *Temporary Sign Standards*.

4. *Directional*. On-premises directional and instructional signs not exceeding six square feet in area each.

5. *Incidental signs.* Incidental signs as defined in Sec. 30-1-116 *Definitions* which do not exceed three square feet in area.

6. *Flags*. Exempt flags include:

   a. for residential properties up to two flagpoles no more than 18 feet high with a combined total of 48 square feet of flag area.

   b. for commercial areas up to two flagpoles of no more than 36 feet high with a combined total of 144 square feet of flag area. Additional flag installations shall be subject to a sign permit and the square footage of any additional flag shall be included in the total sign area permitted for the subject property.

7. *Yard sign.* Yard signs as defined in Sec. 30-1-116 *Definitions* and subject to the standards in Section 30-7-110 *Temporary sign standards*.

8. *Temporary window signs.* Temporary window signs as defined in Sec. 30-1-116 *Definitions,* limited to 25 percent or less of any individual window area.

9. *Text*. No permit shall be required for text or copy changes; provided that no structural changes are made to the sign.

10. *Time and temperature*. Signs displaying only time and temperature, not to exceed 6 square feet. Time and temperature devices shall not be included within the measurement of maximum sign area permitted by Section 30-7-109 B *Sign allowance.*

11. *Public signs* as defined at Section 30-1-116 *Definitions*.

12. *Vehicular signs*. Vehicular signs as defined at Section 30-1-116 *Definitions*, provided that the primary purpose of such vehicles is not for the display of signs, and provided that they are parked or stored in areas appropriate to their use as vehicles.

a. *Projection.* Signs on vehicles shall not project beyond the surface of the vehicle in a manner which creates a hazard to pedestrians, cyclists or other vehicles.

b. *Prohibitions.* It shall be unlawful to place or store a vehicle with a sign on it in such manner as to increase the permitted sign area or number of signs either on-site or off-site for a non-residential use. Also see Section 30-7-104 A. 12 *Prohibited Signs*.

13. *Handheld signs.* Handheld signs as defined at Section 30-1-116 *Definitions* shall not exceed 20 square feet in area. No person shall place, maintain or otherwise utilize a handheld sign in a manner which obstructs or makes hazardous the free passage of pedestrians and motor vehicles on any street, sidewalk or public right-of-way.

30-7-104 Prohibited signs

A. *Prohibited signs*. The following signs are inconsistent with the purposes and standards in this Section and are prohibited in all zoning districts.

1. Flashing, rotating, blinking or moving signs, animated signs, signs with moving, rotating or flashing lights or signs that create the illusion of movement

2. Electronic messaging signs, except signs which convey a static digital message such as a price sign at a fueling station or a time and temperature device.

3. Any sign that is erected in such a location as to cause visual obstruction or interference with motor vehicle traffic, bicycle traffic or traffic-control devices including any sign that obstructs clear vision in any direction from any street intersection or driveway.

4. Mechanical or electrical appurtenances, such as "revolving beacons", that are designed to compel attention.

5. Roof signs.

6. Internally illuminated signs. See Section 30-7-107 *Sign illumination*.

7. Pole signs.

8. Any sign other than traffic control signs erected, constructed, or maintained within, over or upon the right-of-way of any road or highway, except in the case of a sign for which a permit has been issued with the requirements of this Section.

9. Off-premises signs, except for temporary sidewalk signs. See Section 30-7-111 *Off- premise sign standards*.

10. Any sign which interferes with free passage from or obstructs any fire escape, downspout, window, door, stairway, ladder or opening intended as a means of ingress or egress or providing light or air.

11. Any sign located in such a way as to intentionally deny visual access to an adjoining property owner's existing sign.

12. Vehicular signs that are on stationary or immobile vehicles or trailers for over seven days including but not limited to, signs painted on or attached to semi-trailers or cargo containers when exhibited on public property or private property adjacent to public right-of-way. Vehicular signs used in connection with a special event and construction trailers are exempted from the requirements of this Section during the duration of the special event or construction project only. Upon the conclusion of the special event, such signs must be removed.

13. Searchlights.

14. Signs with optical illusion of movement by means of a design which presents a pattern capable of reversible perspective, giving the illusion of motion or changing of copy.

15. Abandoned signs, as defined in Section 30-1-116 *Definitions*, (together with its supporting structure). If the sign or sign structure is covered or the identifying symbols or letters removed, an extension of time may be granted by the Director upon good cause for such extension being shown. (This provision shall not apply to permanent signs accessory to businesses which are open only on a seasonal basis, provided that there is clear intent to continue operation of the business).

16. Any sign or sign structure which:

    a. Is structurally unsafe;

    b. constitutes a hazard to safety or health by reason of inadequate maintenance or dilapidation;

    c. Is not kept in good repair; or

    d. Is capable of causing electrical shocks to persons likely to come in contact with it.

17. Any sign or sign structure which:

    a. ;

    b. In any way obstructs the view of, may be confused with or purports to be an official traffic sign, signal or device or any other official sign;

    c. Creates in any way an unsafe distraction for motor vehicle or bicycle operators; or

    d. Obstructs the view of motor vehicle or bicycle operators entering a public roadway from any parking area, service drive, private driveway, alley or other thoroughfare.

30-7-105 Sign measurement

A. *Sign area*. The area of a geometric shape enclosing any message, logo, symbol, name, photograph or display face shall be measured using standard mathematical formulas.

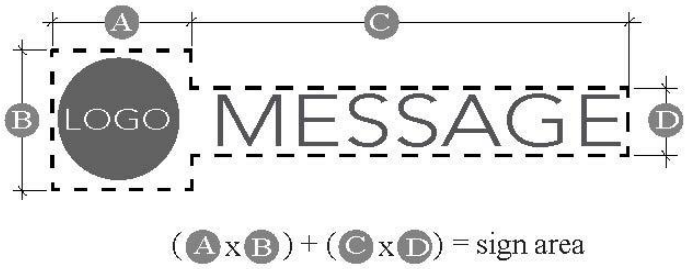
1. *Sign support*. Supporting framework or bracing that is clearly incidental to the display itself shall not be computed as sign area.

2. *Back-to-back (double-faced) signs*. Back-to-back signs shall be regarded as a single sign only if mounted on a single structure, and the distance between each sign face does not exceed two feet at any point.

3. *Three-dimensional signs*. Where a sign consists of one or more three-dimensional objects (i.e. balls, cubes, clusters of objects, sculpture), the sign area is the largest display surface visible from any single direction.

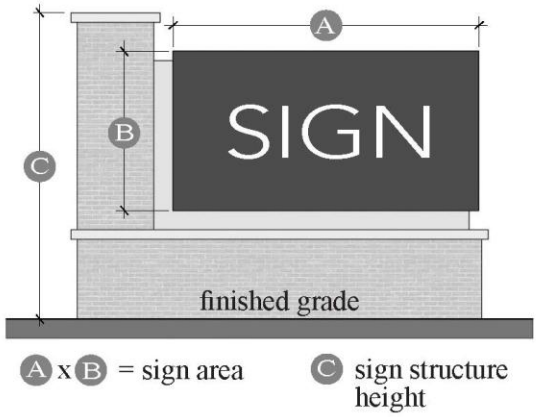
4. *Wall signs*. If a sign is attached to a wall only that portion of the wall onto which the sign face or letters are placed shall be calculated in the sign area, with the following exception: colors used behind or around a sign to differentiate it from the building façade shall be included in the sign area.

Figure 7.1: Sign area measurement



B. *Sign height*. The height of a sign shall be measured from the highest point of a sign structure to the finished grade. When berms are used in conjunction with signage, the height of the sign shall be measured from the mean elevation of the fronting street.

Figure 7.2: Sign area and height measurement



30-7-106 Sign design

A. *Design compatibility*.

1. *Creative design encouraged*. Signs shall make a positive contribution to the general appearance of the street and commercial area in which they are located. A well-designed sign can be a major asset to a building. The Town encourages imaginative and innovative sign design.

2. *Proportionate size and scale*. The scale of signs shall be appropriate for the building or property on which they are placed and the area in which they are located. Building signs shall be harmonious in scale and proportion with the building facade they are mounted upon.

3. *Additional design considerations.*

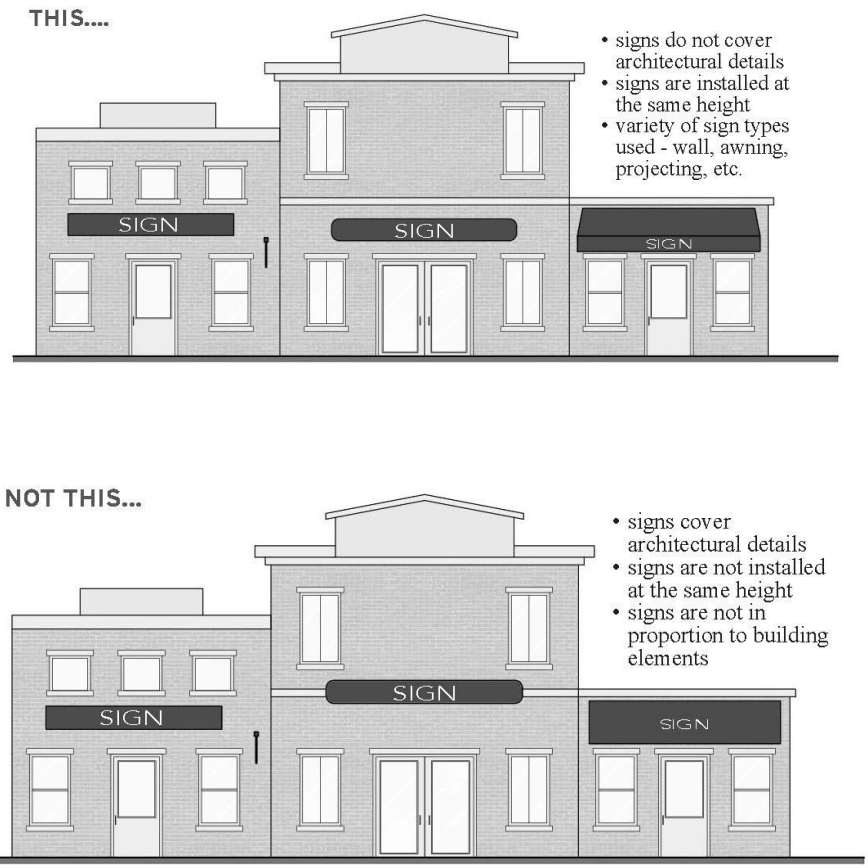
   a. *Visibility*. Signs shall not visually overpower nor obscure architectural features.

   b. *Integrate signs with the building and landscaping.* Carefully coordinate the sign with the architectural design, overall color scheme and landscaping. Signs shall be designed to complement or enhance the other signs for a building.

   c. *Unified sign band.* Whenever possible, signs located on buildings with the same blockface shall be placed at the same height, in order to create a unified sign band. Locate wall signs at the first-floor level only for retail uses.

d. *Pedestrian-oriented signs.* Pedestrian-oriented signs are encouraged. It is desirable to include a pedestrian-oriented sign as one of the permanent permitted signs for a business. These signs are designed for and directed toward pedestrians so they can easily and comfortably read the sign as they stand adjacent to the business.

Figure 7.3: Sign placement



4 . *Landscaping*. Freestanding signs shall be landscaped at their base in a way harmonious with the landscape concept for the whole site. Landscaping shall form an attractive, dense cluster at the base of the sign that is equally attractive in winter and summer. A landscape plan for the sign base shall be provided.

5. *Reduce sign impact*. Because residential and commercial uses generally exist in close proximity, the foundation and support structure for signs shall be designed, located and/or screened with landscaping so that they minimize impact on adjacent residential neighborhoods, without impairing the communicative purpose of the sign. Small-scale signs are encouraged.

30-7-107 Sign illumination

A. *External illumination.* Unless otherwise specified, all signs that use illumination shall use indirect lighting as defined in Sec. 30-1-116 *Definitions*.

1. All signs that use illumination shall have their lighting directed in such a manner as to illuminate only the face of the sign without causing glare.

2. Any external light source must be downcast and fully shielded.

3. Projecting light fixtures shall be simple and unobtrusive in appearance and shall not obscure the graphics of the sign.

B. *Internal illumination prohibited.* Signs shall not be internally illuminated, with the following exceptions:

1. Neon tubing and LED light ropes are acceptable methods of sign design or sign illumination in the commercial and industrial zone districts.

2. The portion of a sign face dedicated to text or characters may be halo lit, as shown in Figure 7.4. No sign cabinets or light boxes with push through lettering shall be internally illuminated.

Figure 7.4: Sign illumination



C. *Compliance*.

1. All sign illumination shall meet the Town of Berthoud "Dark Sky" regulations established in Sec. 30-2-118 *Outdoor lighting and dark sky standards*.

2. All lighted signs shall meet all applicable electrical codes and the electrical components used shall bear the label of an approval agency. Electrical permits shall be obtained for electric signs.

D. *Hours of operation.* All illuminated signs shall be turned off at close of business, or 9:00 pm, whichever occurs first.

30-7-108 Sign installation, maintenance, alteration and removal

A. *Sign installation*.

1. Where possible, signs shall be mounted so that the mounting brackets and associated mounting hardware are concealed.

2. Projecting signs shall be mounted so they generally align with others in the block.

3. The Town may inspect any sign governed by this Section and shall have the authority to order the repair, alteration or removal of a sign which constitutes a hazard to safety, health or public welfare by reason of inadequate maintenance, dilapidation or obsolescence.

B. *Sign maintenance*.

1. All signs and all components thereof, including sign structures and sign faces, shall be maintained in compliance with all building and electrical codes in force at the time of installation.

2. The owner of a sign and the owner of the premises on which such sign is located shall be jointly and severally liable to maintain such sign, including any illumination sources in neat and orderly condition, and in a good working order at all times, and to prevent the development of any rust, corrosion, rotting or other deterioration in the physical appearance or safety of such sign.

3. The owner of any sign regulated by this Section shall be required to keep signs and supporting hardware, including temporary signs and time/temperature signs structurally safe, clean, free of visible defects and functioning properly at all times. Repairs to signs shall be equal to or better in quality of materials and design than the original sign.

C. *Sign alteration.*

1. Any alteration to an existing sign, other than for a change of copy or for maintenance, shall require a new sign permit pursuant to Section 30-7-102 *Sign permits*.

2. Sign alterations shall include, without limitation:

   a. Changing the size of the sign.

   b. Changing the shape of the sign.

   c. Changing the material of which the sign is constructed.

   d. Changing or adding lighting to the sign.

   e. Changing the location of the sign.

   f. Changing the height of the sign.

D. *Sign removal*

1. *Discontinued establishments*. Whenever a business, industry, service or other use is discontinued, the sign(s) pertaining to the use shall be removed or obscured by the person or entity owning or having possession over the property within 90 days after the discontinuance of such use.

2. *Removal of illegal signs in the public right-of-way*. The Town may cause the removal of any sign within the public right-of-way or on property that is otherwise abandoned that has been placed there without first complying with the requirements of this Section.

3. *Repair and removal of abandoned signs/signs in violation of Code*. The Town may cause the repair or removal of any sign that has become a hazard to public safety. Signs in violation of any other provision of this Code may also be removed by the Town.

4. *Storage of removed signs*. Signs removed in compliance with this Section shall be stored by the Town for 30 days, during which they may be recovered by the owner only upon payment to the Town for costs of removal and storage. If not recovered within the 30-day period, the sign and supporting structure shall be declared abandoned and title shall vest with the Town. The costs of removal and storage (up to 30 days) may be billed to the property owner.

5. *Inspection.* The Town may inspect any sign governed by this Section and shall have the authority to order the repair, alteration or removal of a sign which constitutes a hazard to safety, health or public welfare by reason of inadequate maintenance, dilapidation or obsolescence.

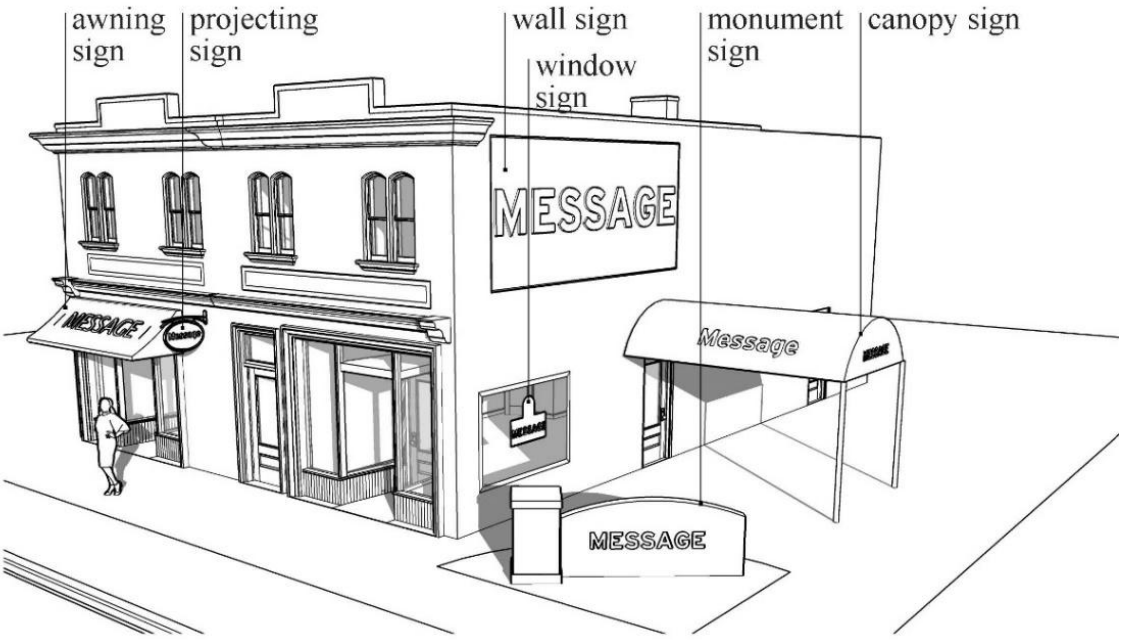
6. *Penalties.* Signs which are not permitted by this Code shall be subject to administrative remedies contained herein.

30-7-109 Permanent sign standards

A. *Permitted permanent sign types*. The illustration in Figure 7.5 identifies the types of permanent signs permitted per this Section.

1. All permanent signs shall be located off the street right-of-way, unless otherwise granted permission for such location by the Town or the Colorado Department of Transportation (CDOT).

Figure 7.5: Permanent Sign Types



B. *Sign allowance*.

1. *Non-residential signs*. All businesses and other non-residential properties within the Town are allowed permanent signage of any type (monument, wall, projecting, canopy, awning, etc.) within the square footage totals identified below and other limitations of this Section:

a. Two square feet for each linear foot of building up to 200 linear feet of building frontage and an additional one square foot for each linear foot of building frontage over 200 feet. Unless

specifically stated otherwise in this Section, the maximum size of any single sign is 288 square feet (12 feet by 24 feet). Any request for a larger single sign will be reviewed by the Planning Commission as a variance to this Section, in accordance with Section 30-3-108 *Board of Adjustment*.

b. Where the linear frontage of all buildings is less than 30 percent of the total lot frontage, allowable sign sizes are two square feet of sign for each linear foot of building and an additional one square foot of sign for each linear foot of property frontage (less the linear building frontage).

c. Accessory wall signs count toward the total sign allowance and are limited to no more than 20% of the total wall sign allowance each.

2. *Residential signs*. All residential properties within the Town are allowed permanent signage of any type (monument, wall, projecting, canopy, awning, etc.) within the square footage totals identified below and other limitations of this Section:

a. The sign allowance for multi-family residential or mixed-use development shall be within the same limits as non-residential signage; see subsection B 1. above, with the following exception: all home-based business signs are limited to no more than two square feet in size.

b. All home-based business signs or other signs on lots with single-family or two-family dwellings are limited to no more than two square feet in size.

C. *Awning signs*.

1. *General standards*. The following standards apply to all awning signs:

a. Signs may be placed only on awnings that are located on first- and second-story building frontages, including those fronting a parking lot or pedestrian way.

b. No awning sign shall project outside the face of an awning.

2. *Awning sign specifications*. Specifications regulating awning signs are shown on Table 7.1:

Table 7.1 Awning sign standards

Zones Allowed	R4, C1, C2, M1, M2, SC, UC, PUD
Sign Permit Required	Yes
Maximum Number	One per window
Maximum Area	Within sign allowance
Maximum Width	Width of window
Maximum Letter Height	Variable
Maximum Valance Height	12 inches
Maximum Projection	Seven feet
Minimum Clearance	Eight feet
Illumination Allowed	Yes; under awning and directed downward

Figure 7.6 Awning sign detail

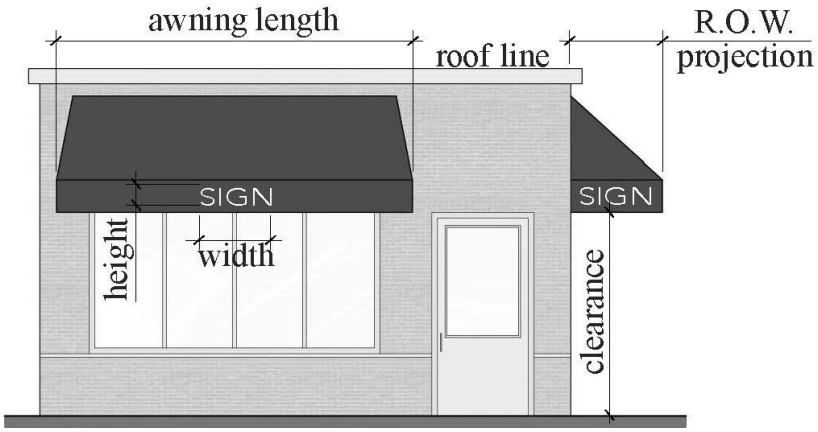


Figure 7.7 Awning sign example



D. *Canopy signs*.

1. *General standards*. The following standards apply to all canopy signs:

   a. No canopy, with or without signage, shall extend above the roof line of any building.

   b. No canopy sign shall project above the top of the canopy upon which it is mounted.

   c. Under-canopy signs which are perpendicular to the face of the building shall be deemed to be projecting signs.

   d. Under-canopy signs which are parallel to the face of the building shall be a minimum of eight feet above finished grade and shall be deemed to be wall signs.

2. *Canopy sign specifications*. Specifications regulating canopy signs are shown on Table 7.2:

Table 7.2 Canopy sign standards

Zones Allowed*	R4, C1, C2, M1, M2, SC, UC, PUD
Sign Permit Required	Yes
Maximum Number	One per canopy face
Maximum Area	38 square feet
Maximum Width	25 feet
Maximum Height	18 inches
Letter Height	Min. five inches/max. 12 inches
Maximum Valance Height	12 inches
Maximum Projection	20 feet from face of building
Minimum Clearance	12 feet from finished grade
Illumination Allowed	Yes; under canopy and directed downward
*Canopy signs are not permitted in the Residential Conversion or Downtown Commercial character areas within the Mountain Avenue Overlay District	

Figure 7.8 Canopy sign detail

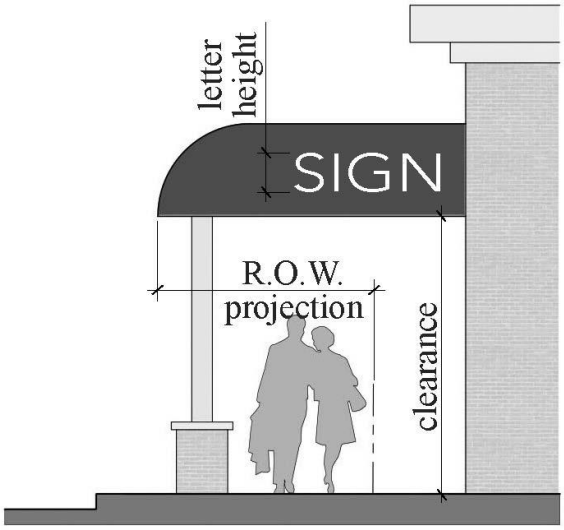


Figure 7.9 Canopy sign example



E. *Monument signs*.

1. *General standards*. The following standards apply to all monument signs:

   a. *Location.*

      i. A monument sign may be located only on a site frontage adjoining a public street.

      ii. No monument sign in any zoning district can be erected closer than eight feet from any curbline, nor closer than four feet to any building.

      iii. No monument signs in any business or industrial district may be located less than 25 feet from any property line adjacent to a residential zoning district line.

   b. *Sign mounting.* The sign shall be mounted on a solid monument-type base. The sign base shall not be greater than 50% of the sign area.

   c. *Monument sign design.* The design of a monument sign shall be consistent with the overall scale of the building. The design and placement of the sign shall not obstruct traffic safety sight distance areas.

   d. *Monument sign landscaping requirements.*

      i. Monument signs shall be landscaped at their base in a way harmonious with the landscape concept for the whole site. Landscaping shall form an attractive, dense cluster at the base of the sign that is equally attractive in winter and summer. A landscape plan for the sign base shall be provided.

      ii. Landscaping shall be provided at the base of the supporting structure equal to twice the area of one face of the sign. For example, 20 square feet of sign area equals 40 square feet of landscaped area.

      iii. The Planning Commission may reduce or waive this requirement if it is determined that the additional landscaping would not contribute significantly to the overall aesthetic character of the project.

2. *Monument sign specifications*. Specifications regulating monument signs are shown on Table 7.3 and Table 7.4:

Table 7.3 Monument sign standards

Zones Allowed	All, except Downtown Commercial character area within the Mountain Avenue Overlay District
Sign Permit Required	Yes
Maximum Number	One per street frontage, up to a total of two signs, per subdivision or development entrance. One per commercial lot.
Maximum Area: Residential Subidivions * (height x width)	35 square feet
Maximum Area: Non – Residential and Mixed-use Uses* (height x width)	100 sq. ft.
Maximum Height *	12 feet
Illumination Allowed	Yes; indirect only
*See Table 7.4 for Mountain Avenue Overlay District character areas	

Table 7.4 Monument sign area, height and setbacks– Mountain Avenue Overlay District

	Berthoud West	Residential Conversion	Berthoud East	Agriculture	New Berthoud
Maximum Area	100 square feet	35 square feet	100 square feet	100 square feet	135 square feet
Maximum Height	10 feet	5 feet	10 feet	10 feet	12 feet
Mountain Ave/Highway 56 Setback	5 feet	5 feet	5 feet	10 feet	12 feet
Note: Monument signs are prohibited in the Mountain Avenue Downtown Commercial character district					

Figure 7.10 Monument sign detail

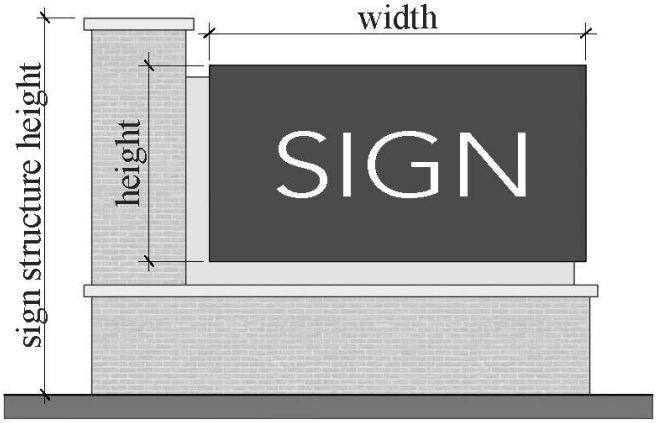


Figure 7.11 Monument sign example: Residential Use

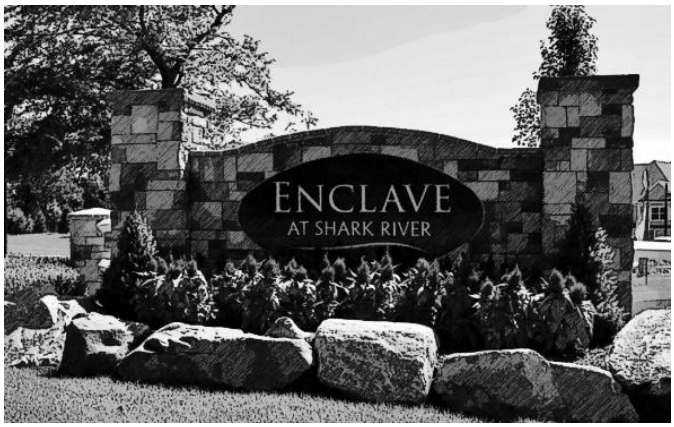
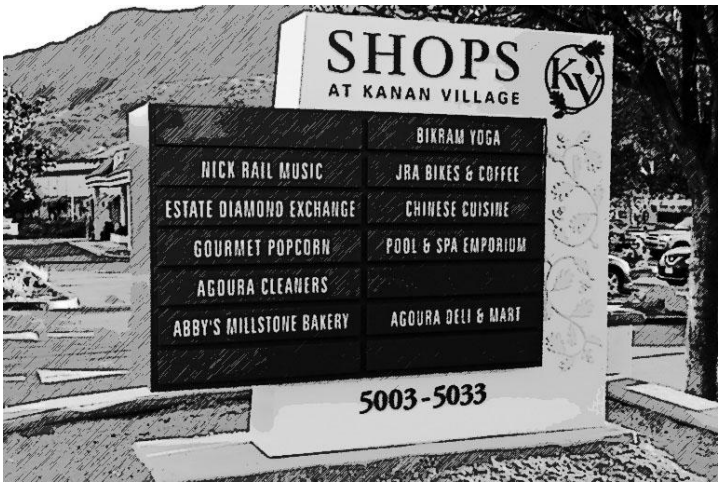


Figure 7.12 Monument sign example: Non-Residential Use



F. *Projecting signs*.

1. *General standards*. The following standards apply to all projecting signs:

    a. Projecting signs shall be placed only on a ground floor facade, except for businesses located above the ground level with direct exterior pedestrian access.

b. Projecting signs shall be no higher than wall that it projects from or no higher than bottom of second story window framing

c. Mount projecting signs so that they align with others in the block and fit with architectural details of the structure.

d. Sign supports and brackets shall be compatible with the design and scale of the sign.

2. *Projecting sign specifications*. Specifications regulating projecting signs are shown on Table 7.5:

Table 7.5 Projecting sign standards

Zones Allowed	R4, C1, C2, SC, UC, M1, M2
Sign Permit Required	Yes
Maximum Number	One per façade; two max.
Maximum Area (height x width)	Six square feet
Maximum Letter Height	10 inches
Maximum Projection	Four feet from face of building
Minimum Clearance	Eight feet from finished grade
Illumination Allowed	Yes; indirect only

Figure 7.13 Projecting sign detail

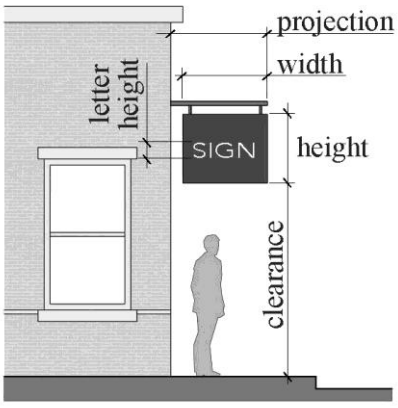
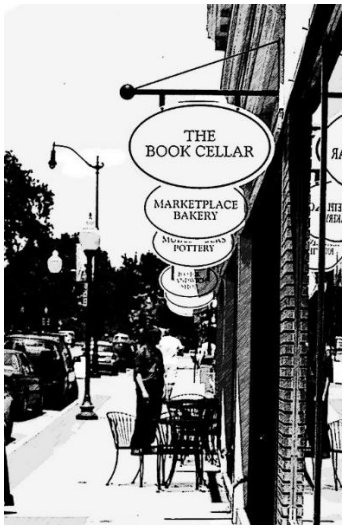


Figure 7.14 Projecting sign example



G. *Wall signs*.

1. *General standards*. The following standards apply to all wall signs:

   a. The sign shall not be placed to obstruct any portion of a window, doorway or other architectural detail.

   b. Wall signs on buildings at the first-floor level are allowed for businesses on higher floors that have a principal entrance on the first floor.

   c. Wall signs plus accessory wall signs shall be in accordance with Section 30-7-109.B *Sign allowance*.

2. *Wall sign specifications*. Specifications regulating wall signs are shown on Table 7.6 and Table 7.7:

Table 7.6 Wall sign standards

Zones Allowed	R4, C1, C2, SC, UC, M1, M2
Sign Permit Required	Yes
Maximum Number	One per street frontage per unit, plus three accessory wall signs
Maximum Area*	Within sign allowance
Maximum Height	No higher than building eave or 25 feet above grade
Maximum Projection	12 inches from face of building
Illumination Allowed	Yes; indirect only
*See Table 7.7 for Mountain Avenue Overlay District character areas	

Table 7.7 Wall sign area – Mountain Avenue Overlay District

	Berthoud West	Residential Conversion	Downtown Commercial	Berthoud East	Agriculture	New Berthoud
Maximum Area	100 square feet	35 square feet	60 square feet	100 square feet	100 square feet	135 square feet

Figure 7.15 Wall sign detail

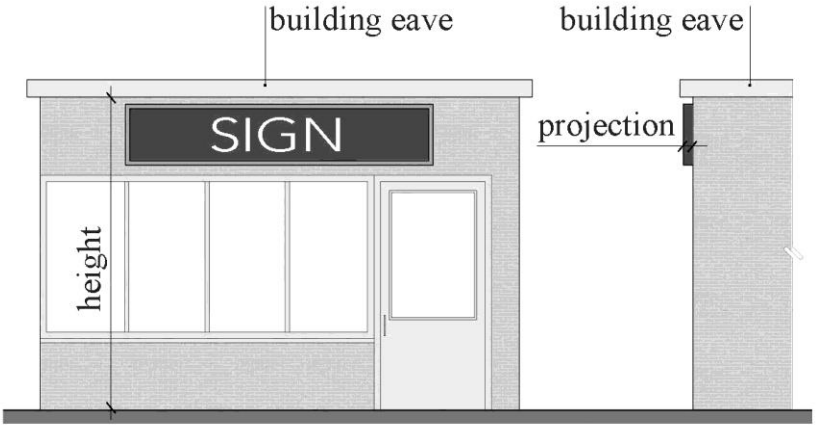


Figure 7.16 Wall sign example



H. *Window signs*.

1. *General standards*. The following standards apply to all permanent window signs:

   a. Permanent window signs shall be located only in those windows of the unit or space occupied by a business.

   b. Permanent window signs shall not be displayed in windows above the ground floor level.

   c. Permanent window signs shall not be animated.

   d. When determining the maximum permitted number and the maximum permitted area of permanent signs, temporary window signs shall not be taken into account unless otherwise specified or regulated in this Development Code. However, in no case shall a permanent, temporary, or combination of such window signs cover more than 25 percent of any individual window area.

2. *Window sign specifications*. Specifications regulating window signs are shown on Table 7.8:

Table 7.8 Window sign standards

Zones Allowed	C1, C2, SC, UC, M1, M2
Sign Permit Required	Yes
Maximum Number	Unlimited, within maximum area
Maximum Area	25 percent of any individual window area
Maximum Height	Top of ground floor window
Illumination Allowed	Neon only

Figure 7.17 Window sign detail

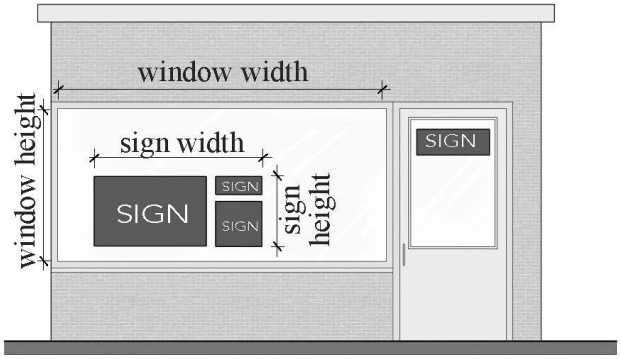


Figure 7.18 Window sign example



30-7-110 Temporary sign standards

A. *Permitted temporary sign types.* The illustrations in Figure 7.19 identify the types of temporary signs permitted per this Section.

1. All temporary signs shall be located off the street right-of-way, unless otherwise granted permission for such location by the Town or the Colorado Department of Transportation (CDOT). In no case may any such sign impede the view or travel of any motorists or pedestrians or be attached to any structure within the right-of-way (i.e., may not be attached to a government sign, telephone pole, etc.).

B. *Duration.* The purpose of temporary signs is to display messages for a temporary duration. Temporary signs shall not be used to circumvent the regulations that apply to permanent signs or to add permanent signage to a property in addition to that which is allowed by these regulations. In general, a temporary sign shall be removed as of the date that:

1. It becomes an abandoned sign;
2. It falls into disrepair; or
3. The expiration of the number of days in the tables below.

Figure 7.19: Temporary Sign Types



C. *Banner signs.*

1. *Special event limitation*. Temporary banner signs are limited to special events as defined in Sec. 30-1-116 Definitions. This limitation also extends to portable signs, promotional tents or other signs not permanently affixed or attached to the ground or to any structure, with the exception of site signs, yard signs and sidewalk signs as regulated in this Section.

2. *General standards.* The following standards apply to all banner signs:

   a. Banner signs shall be erected no sooner than 15 days prior and removed no later than five days after the event.

   b. Banner signs shall be securely attached to the wall of the establishment or light poles on private property.

   c. Wind banner signs shall be securely attached to the ground on private property.

3. *Banner sign specifications*. Specifications regulating banner signs are shown on Table 7.9:

Table 7.9 Banner sign standards

Zones Allowed	All
Sign Permit Required	Yes
Maximum Number	One per street frontage
Maximum Area (height x width)	60 square feet
Illumination Allowed	No
Maximum Time Permitted	15 days; no more than once quarterly per calendar year

Figure 7.20 Banner sign detail – ground mount

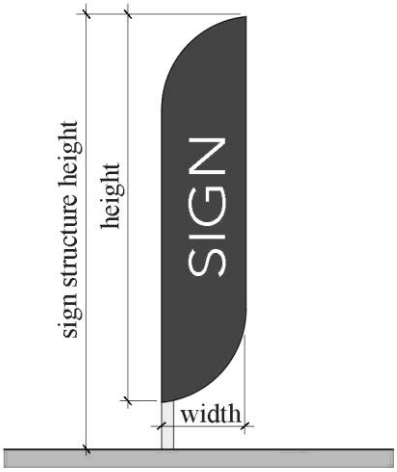


Figure 7.21 Banner sign example – ground mount



Figure 7.22 Banner sign example – wall mount



D. *Sidewalk signs.*

1. General standards. The following standards apply to all sidewalk signs:

   a. A sidewalk sign shall be placed only on the property of the business displaying such sign, or on the adjacent sidewalk. See Section 30-7-111 Off-premise sign standards regarding sign permits issued prior to April, 2024 for off-premise sidewalk signs.

   b. All such signs shall be located off the street right-of-way, unless otherwise granted permission for such location by the Town or the Colorado Department of Transportation (CDOT).

   c. Sidewalk signs must be removed upon close of business each day and may be replaced the following day.

   d. A sidewalk sign shall not obstruct pedestrian or vehicular circulation. Any sidewalk sign that is deemed unsafe for pedestrians or motorists may be removed by the Town.

   e. Sidewalk signs must be anchored to the ground or weighted sufficiently to prevent movement by wind.

2. Sidewalk sign specifications. Specifications regulating sidewalk signs are shown on Table 7.10:

3.

Table 7.10 Sidewalk sign standards

Zones Allowed	C1, C2, SC, UC
Sign Permit Required	Yes
Maximum Number	One
Maximum Area (height x width)	Eight square feet
Maximum Height	48 inches
Maximum Width	24 inches
Min. Pedestrian Clearance	Four feet
Illumination Allowed	No
Maximum Time Permitted	Daily; subject to C. 1.c. above

Figure 7.23 Sidewalk sign detail

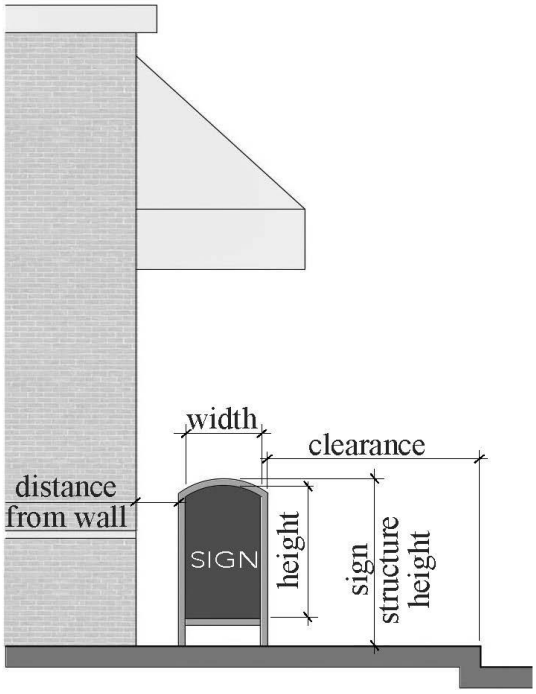


Figure 7.24 Sidewalk sign example



E. *Site Signs.*

1. *General standards.* The following standards apply to all site signs:

   a. Site signs are only allowed on properties with active listings for sale or for rent, or on lots under construction with active building permits, and are not permitted on parcels with existing or built-out residential or non-residential uses.

   b. Only one such sign oriented per street front per premises shall be erected. Any two such signs located on the same premises shall be located at least 100 feet apart as measured using a straight line.

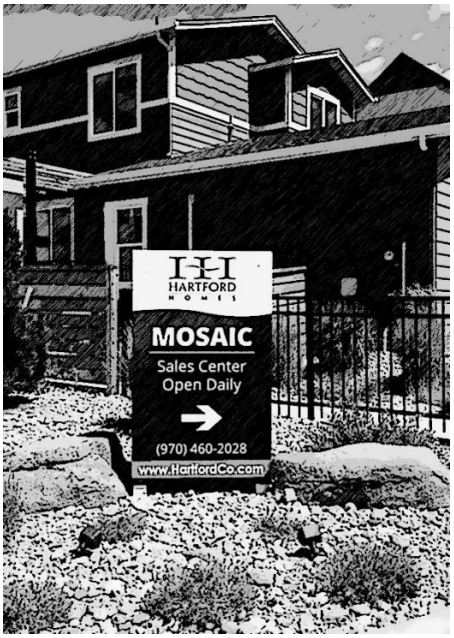
   c. See Sec. 30-5-102 J *Signage* for construction rules and regulations associated with site signs.

2. *Site sign specifications*. Specifications regulating site signs are shown on Table 7.11:

Table 7.11 Site sign standards

Zones Allowed	All
Sign Permit Required	No
Maximum Number	One per street frontage
Maximum Area: Residential Zone	Eight square feet, unless otherwise specified in E. 1. c above
Maximum Area: Non – Residential Zone	32 square feet
Illumination Allowed	No
Maximum Time Permitted	Seven days after active listing or building permit has expired.

Figure 7.25 Site sign example



F. *Yard signs.*

1. General standards. The following standards apply to all yard signs:

a. Yard signs shall not be erected or placed in parks, alleys or in a street or other public right-of way or place.

b. Unless otherwise specified herein, yard signs shall be displayed not more than twice per year per dwelling unit.

c. An unlimited number of yard signs are permitted within 60 days before and five days after any general or special election.

2. *Yard sign specifications*. Specifications regulating yard signs are shown on Table 7.12:

Table 7.12 Yard sign standards

Zones Allowed	All
Sign Permit Required	No
Maximum Number	One per street frontage, unless otherwise specified in F. 1 above
Maximum Area: Residential Use	Eight square feet
Maximum Area: Non – Residential Use	32 square feet
Illumination Allowed	No
Maximum Time Permitted	Five days, or seven days after an active listing has expired, unless otherwise specified in F. 1. above

Figure 7.26 Yard sign examples



30-7-111 Off-Premise sign standards

A. *General requirements.*

1. Off-premises signs, also known as off-site signs, are permitted with a Use by Special Review permit.

2. Off-premises signs shall not:

   a. Interfere with pedestrian or vehicular safety;

   b. Detract from the pedestrian quality of the surrounding area;

   c. Add to an over-proliferation of signs on one property or in an area; or

   d. Measure more than 4 square feet in area, except for sidewalk signs.

B. *Billboard signs*. No new billboard signs are allowed within the Town of Berthoud after May 3, 2012. Billboard signs in existence on May 3, 2012 are considered legal and non-conforming, subject to the requirements of this Code with respect to non-conforming uses.

C. *Off-premise sidewalk signs.* Sign permits issued prior to the effective date of Ordinance 1334 remain in effect for existing off-premise sidewalk signs associated with businesses located further than one block north or south of Mountain Avenue between 2nd Street and 5th Street, or within the one block dimension but outside of the normal line-of-sight of motorists on Mountain Avenue. After the effective date of Ordinace 1334 no additional sign permits for off-premise sidewalk signs will be issued. No new off-premise sidewalk signs are allowed.

30-8 101 Mountain Avenue Overlay District

1. *Intent:* The Mountain Avenue Overlay District was developed to protect and enhance the existing historical districts and direct the general character of new development and redevelopment along Mountain Avenue/Highway 56. The overlay district defines and emphasizes unique character districts along the corridor and sets specific guidelines as to architecture, site planning, parking, urban design and streetscapes within this area. The underlying zoning remains, and specific design, architecture and setback requirements are governed by the overlay district. In addition to the requirements of this section, applicants will be required to follow the Mountain Avenue Corridor Design & Signage Plan, the Town of Berthoud Architectural Guidelines and the Town of Berthoud Landscape Guidelines.

2. *Applicability/Boundaries:*

   A. *Boundary of Mountain Avenue Overlay District.* The boundary of this Mountain Avenue Overlay District (herein referred to as the "Mountain Avenue Overlay District") shall be the area so labeled and depicted in the map below, and as approved in the official zoning map, which is incorporated herein by reference; which generally extends along HWY 56 and is applicable to all properties within 150 feet of the centerline of Hwy 56, Larimer County Road 8, and Weld County Road 44 within Town Limits.



   B. *Applicability.* All of the regulations and requirements of this Section shall fully apply when any of the following occur (the property must be brought into full compliance with this Article when any of the following occur):

      1. Construction of any new Structure.

      2. Parking area reconfiguration (repair and restriping of existing parking lot is exempt).

      3. Structural Alterations. Any structural alteration shall follow the Mountain Avenue Overlay District regulations as follows:

         i. *Exterior Walls.* When any change is made to the façade or an exterior wall of an existing structure, all of the façade visible from Mountain Avenue, shall be brought into full compliance with the Mountain Avenue Overlay District found herein.

         ii. *Addition(s):* Any addition must be in full compliance with the Mountain Avenue Overlay.

      4. See the Section on Signs in this Mountain Avenue Overlay District regulations as well as the separate Section on Signs in this Chapter.

5. Change of Use. Any change of use will require compliance with applicable standards of the Mountain Avenue Overlay District.

C. *Exemptions:*

1. General property maintenance and/or general property repair, such as roof repairs, interior remodels and repair, paint, and any other non-structural repair, or;

2. The maintenance, repair, upgrading or replacement of any water, sewer, HVAC, or electrical facilities will not trigger a requirement that such property or structure be brought into compliance with the Mountain Avenue Overlay District.

3. Existing single-family homes are exempt from the requirements of this overlay and shall follow the development standards of the underlying zoning district.

D. *Legal Non-conformities.*

1. Except as provided in this District to the contrary; all nonconforming uses, nonconforming structures and nonconforming lots, shall be governed by the Section regarding Nonconformities in this Chapter.

3. *Overlay Requirements—Character Districts.* The 7.75-mile corridor passes through several distinct environments, each with a unique and definable character that separate them from other places along the corridor. These districts are often defined by architecture, land uses, scale, density, streetscapes, and landscaping. This Overlay protects and enhances the character of each district.

A. *Berthoud West Character District.* This is a largely undeveloped district with views of the Rocky Mountains, and in close proximity to downtown and Highway 287. This area is envisioned as a vibrant walkable commercial district with opportunities for shopping, employment and other services. Though this district is in close proximity to the town core, it will build on the unique characteristics of downtown, but not replicate it. The District extends from the western boundary of the Town limits to 8th Street.

B. Residential Conversion District. This district is characterized by charming older homes occupied by businesses and commercial uses. Majestic street trees create a seemingly continuous canopy over Mountain Avenue, and expanded green spaces surrounding the homes and detached walks with tree lawns create a walkable neighborhood. The Residential Conversion character district extends along Mountain Avenue between 8th Street and 7th Street on the south side of Mountain Avenue. The Residential Conversion character district extends along Mountain Avenue between 8th Street and the western half of the block between 5th and 6th Streets. . Refer to the Mountain Avenue Overlay District map found in this Section.

C. *Downtown Commercial Character District.* Berthoud's Downtown District represents a concentration of character and personality, and shapes much of the Town's identity. Its buildings give a sense of history, its businesses and restaurants show the liveliness of the town, and its quirks set it apart from other towns in Northern Colorado. The Downtown Commercial character district extends along Mountain Avenue between 7th Street and 1st Street on the south side of Mountain Avenue and between the east half of the block between 5th and 6th Street to 1st Street on the north side of Mountain Avenue in the downtown area. Refer to the Mountain Avenue Overlay District map found in this Section.

D. *Berthoud East Character District.* A transition district from the rural agrarian areas to the downtown core. The undeveloped land on the south side of Hwy 56 is envisioned as a vibrant walkable residential district with a mixed-use area near the intersection of County Line Road 1 providing opportunities for shopping, dining, employment and other services. Appropriate land use, scale and density transitions from existing residential neighborhoods are critical. he parcels that are located within this district are Tfound on the Mountain Avenue Overlay District map found in this Section. Generally, the boundary is described as from 1st Street to County Line Road 1 on the north side of Mountain Avenue/ State Highway 56 and from 1st Street to one – half mile east of County Line Road on the south side of Mountain Avenue/ State Highway 56.

E. *Agricultural Character District.* Farms, big skies, distant views, and scattered farmsteads provide a pleasant separation between Interstate 25 and the Town which adds to Berthoud's small-town appeal. The primary goal of this district is to retain the rural and agrarian character and to protect the iconic views to the Rocky Mountains. The Agriculture Character District extents vary on the north and south frontages. Refer to the Mountain Avenue Overlay District map found in this Section. In general, the District extends from County Line Road 1 to one-half mile west of Interstate 25 on the north side of Mountain Avenue/ Highway 56 and one-half mile east of County Line Road 1 to one-half mile west of Interstate 25 on the south side of Highway 56.

F. *New Berthoud Character District.* New Berthoud straddles the I-25/Hwy 56 interchange and is the gateway into Town. The lasting impression should relate to "Berthoud Proper" and offer a fresh new twist. The New Berthoud Character District extends one-half mile west of Interstate 25 to County Road 11. Refer to the Mountain Avenue Overlay District map found in this Section

SECTION 9 INNOVATION DISTRICT OVERLAY STANDARDS

30-9-101 1st Street Corridor Overlay District

A. *Intent.* The 1st Street Corridor Overlay District was developed to create an Innovation Distrcit within Berthoud that is distinct and unique in its form and functions from other areas in Town. The focus of this Overlay is to direct the general character of new development and redevelopment within the Overlay District boundaries in accordance with the plan adopted by Resolution 2023-09. Where conflicts exist between the 1st Street Overlay District and the remainder of the Berthoud Municipal Code and in particular Chapter 30, the language and intent of the 1st Street Overlay District shall take precedence. This includes architecture, site planning, the development of infrastructure and road cross sections.

B. *Boundaries.*

1. *General.* The boundary of this 1st Street Corridor Overlay District (herein referred to as the 1st Street Overlay) shall be the area so labeled and depicted in the Figure below, and as approved in the official zoning map, which is incorporated herein by reference. The 1st Street Overlay is applicable to all properties within the 1st Street corridor within Town Limits.

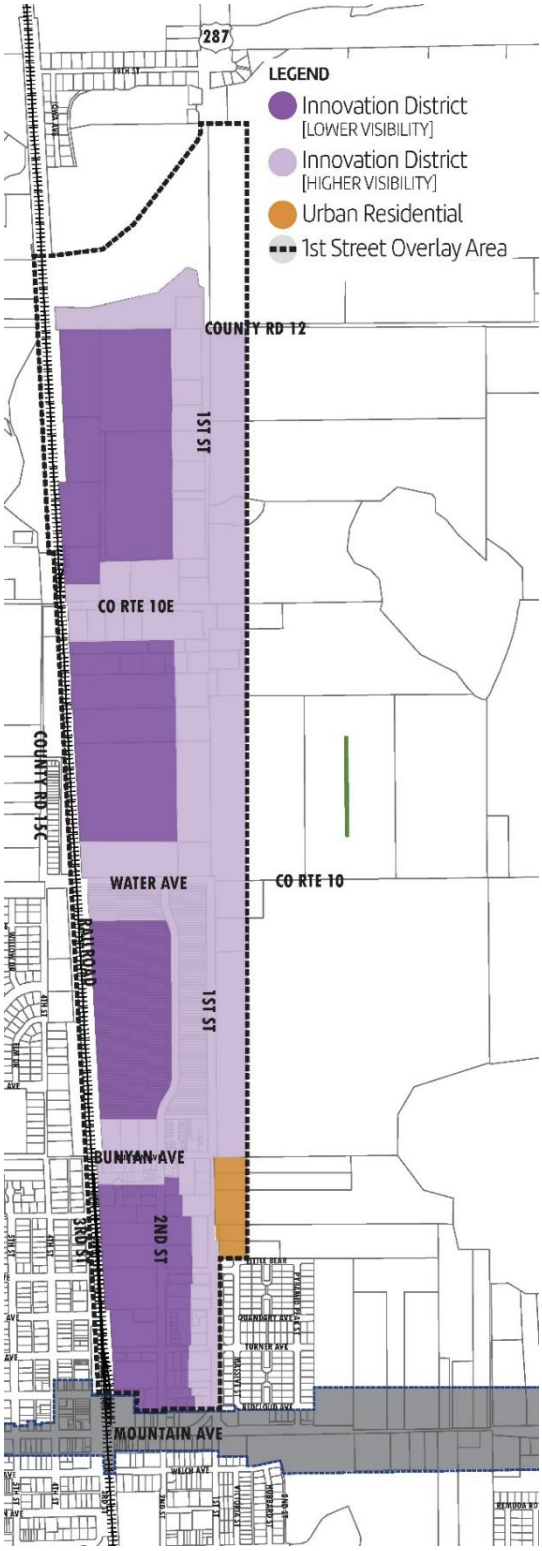
2. *Districts.* As depicted in the Figure below, the 1st Street Overlay is comprised of two Character Districts: the Innovation District and the Urban Residential District. The Innovation District is a distinct business district encompassing a majority of the 1st Street Overlay area. The Urban Residential District supports potential commercial and employment opportunities in the Innovation District.

3. *Visibility Areas.* As depicted in the Figure below, the Innovation District is comprised of a Higher Visibility Area and a Lower Visibility Area.

a. Higher Visibility Areas are defined within 300 feet of the centerline of 1st Street, Bunyan Avenue, Water Avene, CR10, CR10E, and CR12.

b. Lower Visibility Areas are the remaining areas outside the Higher Visibility Areas.

Innovation District Overlay Boundaries



C. *Applicability.* All of the regulations and requirements of this Section shall fully apply when any of the following occur on property within the 1st Street Overlay:

1. Construction of any new principal structure.

2. Parking area reconfiguration.

3. Structural Alterations. Any structural alteration shall follow the 1st Street Overlay regulations as follows:

    a. Exterior Walls. When a change is made affecting ten percent (10%) or more of the façade or an exterior wall of an existing structure within a Higher Visibility Area, all of the façade shall be brought into full compliance with the 1st Street Overlay found herein.

    b. Addition(s): Any addition to an existing structure which expands the original structure footprint by ten percent (10%) or more within a Higher Visibility Area must be in full compliance with this 1st Street Overlay.

4. Sign Permits. The expansion, change, or removal and replacement of an existing sign shall require the sign to be brought into compliance with the Development Code Section regarding Sign regulations.

5. Change of Use. Any change of use resulting in increased traffic, parking requirements, demand on utilities, lighting, or other site – specific modification will necessitate land development review and require compliance with applicable standards of this Code and the 1st Street Overlay regulations.

D. *Exemptions.* The following exemptions to the regulations and requirements of this Section are applicable to property within the 1st Street Overlay:

1. General property maintenance and/or general property repair, such as roof repairs, interior remodels and repair, exterior painting, parking lot repair/restriping, and any other non-structural repair, or;

2. The maintenance, repair, upgrading or replacement of any water, sewer, HVAC, or electrical facilities will not trigger a requirement that such property or structure be brought into compliance with this 1st Street Overlay.

3. Existing single-family residential uses are exempt from the requirements of this 1st Street Overlay and shall follow the development standards of the underlying zoning district.

E. *Legal Nonconformities.* Except as provided in this 1st Street Overlay to the contrary; all nonconforming uses, nonconforming structures and nonconforming lots, shall be governed by the *Nonconforming use/buildings* section of this Chapter.

F. *Architectural Standards/Guidelines.* All applicable development within the 1st Street Overlay shall be in accordance with the architectural standards of this Code and the Architectural Design Guidelines.

1. All applicable development within the Urban Residential District shall be in compliance with the *Residential design standards* section of this Chapter.

    a. During the land development approval process, and specifically the sections regarding *Site plan* and *Use by Special Review* applications in this Chapter as applicable, an applicant proposing development within the Urban Residential District shall illustrate how the development will comply with the requirements set forth in the Architectural Design Guidelines for the Urban Residential Character District.

2. All applicable development within the Innovation District shall be in compliance with *Commercial and industrial standards* section of this Chapter.

    a. During the land development approval process, and specifically the sections of the Development Code regarding *Site plan* and *Use by Special Review* as applicable, an applicant proposing development within a Higher Visibility area shall illustrate how the development will comply with the requirements set forth in the Architectural Design Guidelines for the Urban Industrial Character District.

b. During the land development approval process, and specifically the sections regarding *Site plan* and *Use by Special Review* permits as applicable, an applicant proposing mixed use development shall illustrate how the development will comply with the requirements set forth in the Architectural Design Guidelines for the Urban Downtown Character District.

G. *Use and Dimensional Standards.* All applicable development within the 1st Street Overlay shall be in accordance with the land use and dimensional standards in the following Table titled 1st Street Corridor Overlay District Use and Dimensional Standards:

1st Street Corridor Overlay District Use and Dimensional Standards Table

Uses Allowed	Per Underlying Zoning
Mixed-Use Standards	Per R-4 Zoning
Maximum Density	Per Underlying Zoning
Maximum Building Height: Innovation District	3 Stories (40 feet)
Maximum Building Height: Urban Residential District	Per Underlying Zoning
Minimum Lot Size	Per Underlying Zoning
Minimum Lot Width	Per Underlying Zoning
Building Setbacks	Per Underlying Zoning
Building Orientation	Parallel to Front lot line
Maximum Parking and Driveway Frontage	40% of lot frontage shall include parking and/or driveway frontage

SECTION 10 HISTORIC RESOURCES[9]

30-10-101 Intent

A. The intent of this chapter is to:

1. Survey, identify, designate, preserve, protect, enhance, and perpetuate those sites, structures, objects, and districts that reflect important elements of the Town's cultural, artistic, social, economic, political, architectural, archaeological, or other heritage;
2. Foster civic pride in the art, architecture, and accomplishments of the past;
3. Stabilize or improve aesthetic and economic vitality and values of such sites, structures, objects, and districts;
4. Promote the use of important historical, archaeological, or architectural sites, structures, objects, and districts for the education, stimulation, and welfare of the people of the Town;
5. Protect and enhance the Town's historic cultural and environmental resources to preserve its attraction to tourists and visitors;
6. Promote thoughtful community planning and design;
7. Promote economic, social, and environmental sustainability through the ongoing use, maintenance, and rehabilitation of existing buildings.

30-10-102 Background

The Town of Berthoud recognizes that certain significant historic resources located within its boundaries contribute to the unique character of the community and are irreplaceable, and as such, merit preservation. Ordinance #920 established a Historic Preservation Commission; a program for the identification, evaluation, and designation of Local Historic Landmarks and Districts; providing information on public incentives for the preservation of Local Historic Landmarks; and land use regulations regarding the alternation, moving or demolition of Local Historic Landmarks and properties on the State or National Register of Historic Places. In 2011, the title of the Historic Preservation Commission was changed to the Berthoud Historic Preservation Advisory Committee by Resolution 4-11. Resolution 4-11 also identified procedures and operations for the Historic Preservation Advisory Committee. Resolution 2019-02 updated the membership, organization, procedure, functions, and duties of all non-statutory advisory committees including the Historic Preservation Advisory Committee.

30-10-103 Definitions

The following definitions apply to terms used in this Section. Terms not defined have their commonly construed meaning.

Alteration — An addition, removal, change, or reconfiguration which alters the exterior character of a Local Historic Landmark including new construction in Historic Districts.

i. *Minor alterations* shall include painting, repair or replacement of roof using the same or similar materials as the existing roof, or foundation repair.

ii. *Major alterations* shall include window or door replacement, additions, and removal or alteration of architectural elements, including but not limited to alterations of any land surface, including the addition or removal of any improvement to or from any land surface that is within or part of any designated resource.

Building — Construction for purposes of shelter or habitation, e.g. house, barn, store, theater, train station, garage, school and other similar structures.

Contributing Property — a building or object adding to the historic significance of a District.

Demolition — The razing, destruction, or dismantling of a resource to the degree that its historic character is substantially obliterated.

Designated Local Historic Landmark — A property officially recognized by the Town of Berthoud, Colorado, as important to its history.

State or *National Register of Historic Places* — Buildings, structures, objects, sites, and districts which are listed on the State Register of Historic Properties or National Register of Historic Places.

District — A significant concentration, linkage, or continuity of sites, buildings, structures, or objects united historically or aesthetically by plan or physical development.

Historic Context — An organizing structure for interpreting history that groups information about historic properties which share a common theme; common geographical location, and common time period. The development of historic contexts is a foundation for decisions about the planning, identification, evaluation, registration, and treatment of historic properties based upon comparative significance.

Historic Integrity — The authenticity of a property's historic identity, evidenced by the survival of physical characteristics that existed during the property's prehistoric or historic period and the composite of its location, design, setting, materials, workmanship, feeling and association.

Historic Significance — The importance of a property to the history, architecture, archaeology, engineering, or culture of a community, achieved by meeting one or more standards of 30-9-105.4.

Listing of Historic Resources — The record of information in the form of surveys about resources potentially significant to the history of the Town of Berthoud, Colorado, but have not been designated as a local landmark.

Local Historic Landmarks (LHL's) — are locally significant historic places designated by the Town of Berthoud because they possess exceptional value or quality in illustrating or interpreting the heritage of Berthoud, Colorado.

Object — Construction which is primarily artistic or commemorative in nature and not normally movable, or part of a building or structure, e.g. statue, fountain, milepost, monument, sign.

Preservation — focuses on the maintenance and repair of existing historic materials and retention of a property's form as it has evolved over time (see minor alterations).

Relocation — The removal of a resource from its historic context or site to another location.

Rehabilitation — The process of returning a property to a state of utility, through repair or alteration, which makes possible an efficient contemporary use while preserving those portions and features of the property which are significant to its historic, architectural, and cultural values.

Resource — any building, structure, site, or object that is part of or constitutes a historic property.

Site — location of a significant event, a prehistoric or historic occupation or activity, or a building or structure, whether standing ruined, or vanished, where the location itself possesses historic, cultural, or archaeological value regardless of the value of any existing structure which may include underground features, e.g. battlefield, campsite; or natural features, food-gathering areas, etc.

Structure — Construction made for functions other than shelter or habitation, e.g. bridge, windmill, dam, highway, silo, kiln.

Survey — The process of identifying, documenting and evaluating or re-evaluating properties to determine their potential for eligibility and designation as a Local Historic Landmark.

30-10-104 Authority and Duties

1. The Historic Preservation Advisory Committee shall conduct all activities necessary and appropriate to maintain Berthoud's Certified Local Government status with the State of Colorado and History Colorado.
2. The Historic Preservation Advisory Committee shall also make recommendations to Town staff and the Town Board of Trustees concerning:
    (a) Criteria for review of historic resources and for review of proposals to demolish designated resources.
    (b) Resources to be nominated for designation as either a historic structure or historic district and designation of those resources qualifying for such designation.
    (c) Application for alterations to the exterior of designated historic structures or elements of historic districts.
    (d) Application for moving or demolishing a Designated Local Historic Landmark.
    (e) Matters related to preserving the historic character of the Town.
    (f) Support or financial assistance for preservation-related programs.
    (g) Removal of properties from the register for reasons including, but not limited to, acts of God, undue hardship and public health/safety concerns.
    (h) Application fees for applications made by citizens applying for historic designation or who are applying to alter or demolish a historically designated property.
3. Advise and assist owners of historic properties on physical and financial aspects of reservation, renovation, rehabilitation, and reuse, including nominations to the Local, State or National Registers of Historic Places within the Town limits.
4. Initiate Public education programs including, but not limited to, walking tours, brochures, marker programs for historic properties, lectures and conferences within both the Town and the greater Berthoud area.
5. Survey historic properties for the purpose of defining those of historic significance, and to prioritize the importance of identified historic properties and areas.

30-10-105 Listing Standards

A. *Listing*.
    1. The Committee shall determine and periodically revise priorities for the identification and evaluation of historic resources.
    2. Unless the Committee finds extraordinary historic importance, only properties over 50 years of age shall be considered for inclusion in the Register of Local Historic Landmarks.
    3. The Committee shall apply criteria based on historic integrity and significance, for evaluating historic resources. The criteria shall be used to identify historic resources as eligible, potentially eligible, or ineligible for listing on the Designated Local Historic Landmarks Register. Owners of surveyed properties will be notified of these findings by the Committee.
    4. Documentation of properties in the Listing of Historic Resources shall be in a format compatible with forms developed by History Colorado, and upon completion, copies of the forms shall be supplied to History Colorado by the Committee.
    5. Records concerning the locations of any archaeological sites shall be filed with History Colorado by the Committee to ensure the safety and security of an archaeological site.

30-10-106 Designated Local Historic Landmark register

A. Properties listed on the State Register of Historic Properties and National Register of Historic Places, including all properties within State or National Register Historic District boundaries, are eligible for automatic listing on the Designated Local Historic Landmark Register.

B. No property shall be designated without the written consent of the owner. In the case of the formation of a Historic District where there are multiple ownerships, a majority of the owners within the area of the proposed District may form the District but the regulations of that District shall only apply to properties that are identified as contributing within the District at the time of formation, or later as approved by the Town Board of Trustees on a case by case basis.

C. Upon acceptance of a completed application, the Town Staff shall schedule two public hearings; one before the Committee for a recommendation, and one before the Town Board of Trustees pursuant to applicable state laws.

In order to be included or maintained on the Local Historic Landmark Register, the Committee may recommend and the Town Board of Trustees must find that:

The quality of significance in Berthoud history, architecture, archaeology, engineering, and culture is present in districts, sites, buildings, structures, and objects that possess integrity of location, design, setting, materials, workmanship, feeling, and association, and:

1. That are associated with events that have made a significant contribution to the broad patterns of our history; or
2. That are associated with the lives of significant persons in Berthoud's past; or
3. That embody the distinctive characteristics of a type, period, or method of construction; represent the work of a master; or possess high artistic values; or represent a significant and distinguishable entity whose components may lack individual distinction; or
4. That yielded or may be likely to yield, information important in history or prehistory.

D. The Committee in making a recommendation and the Town Board of Trustees in making a decision shall develop findings based upon the criteria set forth in this Code, to support its recommendation and decision. These findings shall indicate those elements of a property, including any landscape, and archaeological features that are included in the designation and subject to regulation under the provisions of this ordinance.

30-10-107 Designation of Local Historic Landmarks

A. Recommendations for designation of Local Historic Landmarks. Pursuant to the procedures set forth in this Section, the Committee shall make written recommendation to the Board of Trustees that a site, building, structure, object, or district be designated as a Local Historic Landmark for preservation, meeting the criteria set forth in this Section. Each such recommendation shall include a description of the characteristics of the site, building, structure, object, or district's historic significance and integrity, which justify its designation and shall include a legal description of the property. The recommendation shall indicate alterations that would have a significant impact on, or be potentially detrimental to, the historic features of the site, building, structure, object, or district. Any such designation shall be in furtherance of and in conformance with the purposes and standards of this Section.

B. Procedures for designating Local Historic Landmarks.

1. *Applications*. Applications for designation of Local Historic Landmarks must be made to the Town Staff on forms provided by the Town. Applications shall be made only by the owners of 100 percent of the property for which the application is submitted, except as provided in Section 30-9-105.2.
2. *Staff review*. The Town Staff shall review applications for designation of Local Historic Landmarks for

content and for completeness. The Staff shall, within a reasonable time of receipt, forward complete applications and Staff recommendations to the Committee.

3. *Committee review*. The Committee shall consider and make recommendations upon applications at regularly scheduled or special meetings within a reasonable time of receipt of staff recommendations. The Committee shall recommend approval, approval with conditions, or disapproval of applications, and shall immediately forward written notice of their recommendations to the Town Board of Trustees. In the event of failure of the Committee to act in a timely manner, the Town Board may proceed without a Committee recommendation.

4. *Town Board of Trustees action*. After a recommendation by the Committee, and with public notice given as provided in the Notice and Publication Section of the Land Development Code, the Town Board of Trustees shall by resolution approve, approve with conditions, or shall deny the proposed Local Historic Landmark designation.

5. *Withdrawal of applications*. Prior to action on an application by the Town Board of Trustees, an Applicant may withdraw the application by submitting a written request to the Town Clerk.

6. *Recording*. The resolution designating a site, building, structure, object, or district as a Local Historic Landmark shall be recorded in the records of the Larimer or Weld County Clerk as appropriate.

30-10-108 Limitation on Resubmission and Reconsideration

Whenever the Town Board of Trustees denies an application for Local Historic Landmark designation, or whenever an owner withdraws an application, no application for the same site property may be submitted within one year of the disapproval or withdrawal.

30-10-109 Amendment of Designation

The designation of a Local Historic Landmark may be amended to add additional features to the property according to the application process described in Section 30-9-106 for new designations.

30-10-110 Alteration of a Designated Local Historic Landmark

All modifications to designated Local Historic Landmarks shall be done in conformance with the Secretary of the Interior's Standards for Rehabilitation as published by the U.S. Department of the Interior, National Park Service.

30-10-111 Notification of intent to alter a Designated Local Historic Landmark

The owner of a Local Historic Landmark agrees to notify the Town Staff of the owner's intention to alter (any defined minor or major alteration), demolish, move or remove the Landmark and provide plans for the work at least 30 days prior to beginning such work. This notification requirement shall run with the land and shall bind successors and assigns. The Town Staff shall, upon receipt, forward the notification and plans to the Committee for review and recommendation. The Committee shall review the plans and may advise the owner on the potential effect of the plans on the Local Landmark designation. The Committee may forward a recommendation to the Town Board that, based on the plans, the historic designation be modified or revoked.

30-10-112 Alterations, relocations or demolitions

A. No exterior, landscape, or archaeological element of a designation Local Historic Landmark which is specified as significant in its designation shall be altered, removed, or demolished without authorization issued by the Town Staff pursuant to this Section and a building permit issued, if required under the currently adopted building code.

B. No minor exterior alteration, relocation, or demolition of a designated Local Historic Landmark or a Contributing Structure in an approved Historic District shall be allowed without authorization issued by the Town Staff pursuant to this Section.

C. No major exterior alterations, relocation, or demolition of a designated Local Historic Landmark or a Contributing Structure in an approved Historic District shall be allowed without authorization issued by the Town Board of Trustees with a recommendation by the Committee.

D. Prior to submitting an application for a permit pursuant to this section, the Applicant(s) is encouraged to request a pre-application conference with Town Staff and/or the Committee to review concepts and proposals. The Committee may form ad-hoc sub-committees for this purpose. Committee members participating in pre-application conferences shall disclose their ex-parte contact at the time of any public hearing on the proposal.

E. In cases requiring a public hearing for the relocation or demolition of a Designated Local Historic Landmark, or a Contributing Structure in an approved Historic District, the Committee shall review and recommend to the Town Board of Trustees and the Board shall take action upon such applications. The burden of proof, as per the factors found in Section 30-9-111 6, lies with the Applicant. Applications may be approved, approved with conditions, or denied by the Town Board of Trustees. The Town Staff shall include any conditions imposed by the Town Board of Trustees in permits issued pursuant to this section.

F. Preservation, reuse, relocation, and/or salvage of historic resources whenever possible is encouraged.

G. Minor or Major Alterations:

1. Authorization from the Town Staff is required for work identified as minor alterations as defined in this Section. Authorization from the Town Board of Trustees with a recommendation from the Committee is required for work identified as major alterations to the exterior as defined in this Section. In order to approve an application for an alteration of a Local Historic Landmark, or a Contributing Structure in an approved Historic District, the approving authority shall find that the proposal meets the following standards:

a. A property shall be used as it was historically or be given a new use that requires minimal change to its distinctive materials, features, spaces, and spatial relationships.

b. The historic character of a property shall be retained and preserved. The relocation of distinctive materials or alteration of features, spaces, and spatial relationships that characterize a property shall be avoided.

c. A property shall be recognized as a physical record of its time, place, and use. Changes that create a false sense of historical development, such as adding conjectural features or elements from other historic properties, shall be discouraged.

d. Changes to a property that have acquired historic significance in their own right shall be retained and preserved.

e. Distinctive materials, features, finishes, and construction techniques or examples of craftsmanship that characterize a property shall be preserved.

f. Deteriorated historic features shall be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature shall match the old in design, color, texture, and, where possible , materials. Replacement of missing features shall be substantiated by documentary and physical evidence.

g. Chemical and physical treatments, if appropriate, shall be undertaken using the gentlest means possible. Treatments that cause damage to historic materials shall not be used unless otherwise approved by the Town Staff.

h. Archaeological resources should be protected and preserved in place. If such resources must be

disturbed, mitigation measures should be encouraged.

i. New additions, exterior alterations, or related new construction shall not destroy historic materials, features, and spatial relationships that characterize the property. The new work shall be differentiated from the old and shall be compatible with the historic materials, features, size, scale and proportions, and massing to protect the integrity of the property and its environment.

j. New additions and adjacent or related new construction shall be undertaken in such a manner that, if removed in the future, the essential form and integrity of the historic property and its environment would be unimpaired.

k. In order to approve an application for the relocation or demolition of a Local Historic Landmark, or a Contributing Structure in an Historic District, the Committee and the Town Board of Trustees must find that:

    1. No prudent and feasible alternative exists, or

    2. The designated property is deteriorated beyond repair, or

    3. The value to the community of the proposed use of the property outweighs the value of retaining the Local Historic Landmark.

l. At the public hearing of an application to relocate or demolish a Local Historic Landmark, or a Contributing Structure in an Historic District the Town Board of Trustees, upon recommendation by the Committee, may, in the interest of exploring reasonable alternatives, delay issuance of a permit for up to 90 days from the date of the hearing. If, ten days prior to the expiration of the delay period the Committee finds that there are still reasonable alternatives to explore, it may recommend to the Board of Trustees a delay for an additional period of up to 90 days.

m. In approving an application for the demolition of a Local Historic Landmark, or a Contributing Structure in an Historic District the Committee may recommend to the Town Board of Trustees and the Board may impose the following conditions:

    1. Photographic, video, or drawn recordation of the property to be demolished, and/or

    2. Salvage and curation of significant elements, and/or

    3. Other reasonable mitigation measures.

n. In the review process, the unique circumstances of each application is considered. Therefore, previous approval of a separate application in one setting and set of circumstances does not necessarily set a precedent for the approval of future applications that may be similar but present their own unique setting and set of circumstances.

o. No provision of this Section shall be construed to prevent the ordinary repair or maintenance of a Local Historic Landmark, or a Contributing Structure in an Historic District, when such action does not involve a change in design, materials or appearance.

p. No provision in this Section shall be construed to prevent the alteration, demolition or relocation of a Designated Local Historic Landmark, or a Contributing Structure in an approved Historic District when the Building Official certifies that such action is required for the public safety.

30-10-113 Revocation of Local Historic Landmark designation

The Town Board of Trustees may, by resolution, revoke or modify the designation of a Local Historic Landmark, after ten days' notice to the owner and after public hearing, and with a recommendation by the Committee if any of the following conditions exist:

A If any owner of a Local Historic Landmark fails to provide notification as required in this Section, or if alterations to the Landmark will significantly alter the historic character and/or integrity of the Landmark;

B If an owner of a Local Historic Landmark submits a written request to the Town for revocation of a designation;

C If the Committee makes a recommendation to the Town Board of Trustees for modification or revocation based on an owner's written intent to alter a Local Historic Landmark; or

D If modifications are made to a Local Historic Landmark that are found by the Committee and the Town Board of Trustees to not be in accordance with the standards specified in this Section.

SECTION 11: FLOOD MITIGATION PLAN

30-11-101. TITLE AND PURPOSE

The Legislature of the State of Colorado has, in Title 29, Article 20 of the Colorado Revised Statutes, delegated the responsibility of local governmental units to adopt regulations designed to minimize flood losses. Therefore, the Town Board of Trustees of the Town of Berthoud, Colorado, does hereby adopt the following floodplain management regulations:

A. Findings of fact.

1. The flood hazard areas of the Town of Berthoud are subject to periodic inundation, which can result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, and extraordinary public expenditures for flood protection and relief, all of which adversely affect the health, safety and general welfare of the public.
2. These flood losses are created by the cumulative effect of obstructions in floodplains which cause an increase in flood heights and velocities, and by the occupancy of flood hazard areas by uses vulnerable to floods and hazardous to other lands because they are inadequately elevated, floodproofed or otherwise protected from flood damage.

B. Statement of Purpose

It is the purpose of this ordinance to promote public health, safety and general welfare and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

1. Protect human life and health;
2. Minimize expenditure of public money for costly flood control projects;
3. Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
4. Minimize prolonged business interruptions;
5. Minimize damage to critical facilities, infrastructure and other public facilities such as water, sewer and gas mains; electric and communications stations; and streets and bridges located in floodplains;
6. Help maintain a stable tax base by providing for the sound use and development of flood-prone areas in such a manner as to minimize future flood blight areas; and
7. Insure that potential buyers are notified that property is located in a flood hazard area.

C. *Methods of reducing flood losses.* In order to accomplish its purposes, this ordinance uses the following methods:

1. Restrict or prohibit uses that are dangerous to health, safety or property in times of flood, or cause excessive increases in flood heights or velocities;
2. Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
3. Control the alteration of natural floodplains, stream channels, and natural protective barriers, which are involved in the accommodation of flood waters;
4. Control filling, grading, dredging and other development which may increase flood damage;
5. Prevent or regulate the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards to other lands.

30-11-102. DEFINITIONS

Unless specifically defined below, words or phrases used in this ordinance shall be interpreted to give them the meaning they have in common usage and to give this ordinance its most reasonable application.

100-YEAR FLOOD - A flood having a recurrence interval that has a one-percent chance of being equaled or exceeded during any given year (1-percent-annual-chance flood). The terms "one-hundred-year flood" and "one

percent chance flood" are synonymous with the term "100-year flood." The term does not imply that the flood will necessarily happen once every one hundred years.

100-YEAR FLOODPLAIN - The area of land susceptible to being inundated as a result of the occurrence of a one-hundred-year flood.

500-YEAR FLOOD - A flood having a recurrence interval that has a 0.2-percent chance of being equaled or exceeded during any given year (0.2-percent-chance-annual-flood). The term does not imply that the flood will necessarily happen once every five hundred years.

500-YEAR FLOODPLAIN - The area of land susceptible to being inundated as a result of the occurrence of a five-hundred-year flood.

ADDITION - Any activity that expands the enclosed footprint or increases the square footage of an existing structure.

ALLUVIAL FAN FLOODING - A fan-shaped sediment deposit formed by a stream that flows from a steep mountain valley or gorge onto a plain or the junction of a tributary stream with the main stream. Alluvial fans contain active stream channels and boulder bars, and recently abandoned channels. Alluvial fans are predominantly formed by alluvial deposits and are modified by infrequent sheet flood, channel avulsions and other stream processes.

AREA OF SHALLOW FLOODING - A designated Zone AO or AH on a community's Flood Insurance Rate Map (FIRM) with a one percent chance or greater annual chance of flooding to an average depth of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

BASE FLOOD – The flood which has a one percent chance of being equaled or exceeded in any given year (also known as a 100-year flood). This term is used in the National Flood Insurance Program (NFIP) to indicate the minimum level of flooding to be used by a community in its floodplain management regulations.

BASE FLOOD ELEVATION (BFE) - The elevation shown on a FEMA Flood Insurance Rate Map for Zones AE, AH, A1-A30, AR, AR/A, AR/AE, AR/A1-A30, AR/AH, AR/AO, V1-V30, and VE that indicates the water surface elevation resulting from a flood that has a one percent chance of equaling or exceeding that level in any given year.

BASEMENT - Any area of a building having its floor sub-grade (below ground level) on all sides.

CHANNEL - The physical confine of stream or waterway consisting of a bed and stream banks, existing in a variety of geometries.

CHANNELIZATION - The artificial creation, enlargement or realignment of a stream channel.

CODE OF FEDERAL REGULATIONS (CFR) - The codification of the general and permanent Rules published in the Federal Register by the executive departments and agencies of the Federal Government. It is divided into 50 titles that represent broad areas subject to Federal regulation.

COMMUNITY - Any political subdivision in the state of Colorado that has authority to adopt and enforce floodplain management regulations through zoning, including, but not limited to, cities, towns, unincorporated areas in the counties, Indian tribes and drainage and flood control districts.

CONDITIONAL LETTER OF MAP REVISION (CLOMR) - FEMA's comment on a proposed project, which does not revise an effective floodplain map, that would, upon construction, affect the hydrologic or hydraulic characteristics of a flooding source and thus result in the modification of the existing regulatory floodplain.

CRITICAL FACILITY – A structure or related infrastructure, but not the land on which it is situated, as specified in the Section regarding Standards for Critical Facilities, that if flooded may result in significant hazards to public health and safety or interrupt essential services and operations for the community at any time before, during and after a flood. See the Section regarding Standards for Critical Facilities.

DEVELOPMENT - Any man-made change in improved and unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.

DFIRM DATABASE - Database (usually spreadsheets containing data and analyses that accompany DFIRMs). The FEMA Mapping Specifications and Guidelines outline requirements for the development and maintenance of DFIRM databases.

DIGITAL FLOOD INSURANCE RATE MAP (DFIRM) - FEMA digital floodplain map. These digital maps serve as "regulatory floodplain maps" for insurance and floodplain management purposes.

ELEVATED BUILDING - A non-basement building (i) built, in the case of a building in

Zones A1-30, AE, A, A99, AO, AH, B, C, X, and D, to have the top of the elevated floor above the ground level by means of pilings, columns (posts and piers), or shear walls parallel to the flow of the water and (ii) adequately anchored so as not to impair the structural integrity of the building during a flood of up to the magnitude of the base flood. In the case of Zones A1-30, AE, A, A99, AO, AH, B, C, X, and D, "elevated building" also includes a building elevated by means of fill or solid foundation perimeter walls with openings sufficient to facilitate the unimpeded movement of flood waters.

EXISTING MANUFACTURED HOME PARK OR SUBDIVISION - A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the floodplain management regulations adopted by a community.

EXPANSION TO AN EXISTING MANUFACTURED HOME PARK OR SUBDIVISION-

The preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

FEDERAL REGISTER - The official daily publication for Rules, proposed Rules, and notices of Federal agencies and organizations, as well as executive orders and other presidential documents.

FEMA - Federal Emergency Management Agency, the agency responsible for administering the National Flood Insurance Program.

FLOOD OR FLOODING - A general and temporary condition of partial or complete inundation of normally dry land areas from:

1. The overflow of water from channels and reservoir spillways;
2. The unusual and rapid accumulation or runoff of surface waters from any source; or
3. Mudslides or mudflows that occur from excess surface water that is combined with mud or other debris that is sufficiently fluid so as to flow over the surface of normally dry land areas (such as earth carried by a current of water and deposited along the path of the current).

FLOOD INSURANCE RATE MAP (FIRM) – An official map of a community, on which the Federal Emergency Management Agency has delineated both the Special Flood Hazard Areas and the risk premium zones applicable to the community.

FLOOD INSURANCE STUDY (FIS) - The official report provided by the Federal Emergency Management Agency. The report contains the Flood Insurance Rate Map as well as flood profiles for studied flooding sources that can be used to determine Base Flood Elevations for some areas.

FLOODPLAIN OR FLOOD-PRONE AREA - Any land area susceptible to being inundated as the result of a flood, including the area of land over which floodwater would flow from the spillway of a reservoir.

FLOODPLAIN ADMINISTRATOR - The community official designated by title to administer and enforce the floodplain management regulations.

FLOODPLAIN DEVELOPMENT PERMIT – A permit required before construction or development begins within any Special Flood Hazard Area (SFHA). If FEMA has not defined the SFHA within a community, the community shall require permits for all proposed construction or other development in the community including the placement of manufactured homes, so that it may determine whether such construction or other development is proposed

within flood-prone areas. Permits are required to ensure that proposed development projects meet the requirements of the NFIP and this floodplain management ordinance.

FLOODPLAIN MANAGEMENT - The operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to emergency preparedness plans, flood control works and floodplain management regulations.

FLOODPLAIN MANAGEMENT REGULATIONS - Zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as a floodplain ordinance, grading ordinance and erosion control ordinance) and other applications of police power. The term describes such state or local regulations, in any combination thereof, which provide standards for the purpose of flood damage prevention and reduction.

FLOOD CONTROL STRUCTURE - A physical structure designed and built expressly or partially for the purpose of reducing, redirecting, or guiding flood flows along a particular waterway. These specialized flood modifying works are those constructed in conformance with sound engineering standards.

FLOODPROOFING - Any combination of structural and/or non-structural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

FLOODWAY (REGULATORY FLOODWAY) - The channel of a river or other watercourse and adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height. The Colorado statewide standard for the designated height to be used for all newly studied reaches shall be one-half foot (six inches). Letters of Map Revision to existing floodway delineations may continue to use the floodway criteria in place at the time of the existing floodway delineation.

FREEBOARD - The vertical distance in feet above a predicted water surface elevation intended to provide a margin of safety to compensate for unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood such as debris blockage of bridge openings and the increased runoff due to urbanization of the watershed.

FUNCTIONALLY DEPENDENT USE - A use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities.

HIGHEST ADJACENT GRADE – The highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

HISTORIC STRUCTURE - Any structure that is:

1. Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;

2. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;

3. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of Interior; or

4. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
    a. By an approved state program as determined by the Secretary of the Interior or;
    b. Directly by the Secretary of the Interior in states without approved programs.

LETTER OF MAP REVISION (LOMR) - FEMA's official revision of an effective Flood Insurance Rate Map (FIRM), or Flood Boundary and Floodway Map (FBFM), or both. LOMRs are generally based on the implementation of physical measures that affect the hydrologic or hydraulic characteristics of a flooding source and thus result in the modification of the existing regulatory floodway, the effective Base Flood Elevations (BFEs), or the Special Flood Hazard Area (SFHA).

LETTER OF MAP REVISION BASED ON FILL (LOMR-F) – FEMA's modification of the Special Flood Hazard Area (SFHA) shown on the Flood Insurance Rate Map (FIRM) based on the placement of fill outside the existing regulatory floodway.

LEVEE – A man-made embankment, usually earthen, designed and constructed in accordance with sound engineering practices to contain, control, or divert the flow of water so as to provide protection from temporary flooding. For a levee structure to be reflected on the FEMA FIRMs as providing flood protection, the levee structure must meet the requirements set forth in 44 CFR 65.10.

LEVEE SYSTEM - A flood protection system which consists of a levee, or levees, and associated structures, such as closure and drainage devices, which are constructed and operated in accordance with sound engineering practices.

LOWEST FLOOR - The lowest floor of the lowest enclosed area (including basement). Any floor used for living purposes which includes working, storage, sleeping, cooking and eating, or recreation or any combination thereof. This includes any floor that could be converted to such a use such as a basement or crawl space. The lowest floor is a determinate for the flood insurance premium for a building, home or business. An unfinished or flood resistant enclosure, usable solely for parking or vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor; provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirement of Section 60.3 of the National Flood insurance Program regulations.

MANUFACTURED HOME - A structure transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. The term "manufactured home" does not include a "recreational vehicle".

MANUFACTURED HOME PARK OR SUBDIVISION - A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

MEAN SEA LEVEL - For purposes of the National Flood Insurance Program, the

North American Vertical Datum (NAVD) of 1988 or other datum, to which Base Flood Elevations shown on a community's Flood Insurance Rate Map are referenced.

MATERIAL SAFETY DATA SHEET (MSDS) – A form with data regarding the properties of a particular substance. An important component of product stewardship and workplace safety, it is intended to provide workers and emergency personnel with procedures for handling or working with that substance in a safe manner, and includes information such as physical data (melting point, boiling point, flash point, etc.), toxicity, health effects, first aid, reactivity, storage, disposal, protective equipment, and spill-handling procedures.

NATIONAL FLOOD INSURANCE PROGRAM (NFIP) – FEMA's program of flood insurance coverage and floodplain management administered in conjunction with the Robert T. Stafford Relief and Emergency Assistance Act. The NFIP has applicable Federal regulations promulgated in Title 44 of the Code of Federal Regulations. The U.S. Congress established the NFIP in 1968 with the passage of the National Flood Insurance Act of 1968.

NEW CONSTRUCTION - Structures for which the start of construction commenced on or after the effective date of a floodplain management regulation adopted by a community and includes any subsequent improvements to such structures.

NEW MANUFACTURED HOME PARK OR SUBDIVISION - A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of floodplain management regulations adopted by a community.

NO-RISE CERTIFICATION – A record of the results of an engineering analysis conducted to determine whether a project will increase flood heights in a floodway. A No-Rise Certification must be supported by technical data and signed by a registered Colorado Professional Engineer. The supporting technical data should be based on the standard step-backwater computer model used to develop the 100-year floodway shown on the Flood Insurance Rate Map (FIRM) or Flood Boundary and Floodway Map (FBFM).

PHYSICAL MAP REVISION (PMR) - FEMA's action whereby one or more map panels are physically revised and republished. A PMR is used to change flood risk zones, floodplain and/or floodway delineations, flood elevations, and/or planimetric features.

RECREATIONAL VEHICLE - means a vehicle which is:

1. Built on a single chassis;
2. 400 square feet or less when measured at the largest horizontal projections;
3. Designed to be self-propelled or permanently towable by a light duty truck; and
4. Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

SPECIAL FLOOD HAZARD AREA – The land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year, i.e., the 100-year floodplain.

START OF CONSTRUCTION - The date the building permit was issued, including substantial improvements, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for basement, footings, piers or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

STRUCTURE - A walled and roofed building, including a gas or liquid storage tank, which is principally above ground, as well as a manufactured home.

SUBSTANTIAL DAMAGE - Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed 50 percent of the market value of the structure just prior to when the damage occurred.

SUBSTANTIAL IMPROVEMENT - Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before "Start of Construction" of the improvement. The value of the structure shall be determined by the local jurisdiction having land use authority in the area of interest. This includes structures which have incurred "Substantial Damage", regardless of the actual repair work performed. The term does not, however, include either:

1. Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary conditions or
2. Any alteration of a "historic structure" provided that the alteration will not preclude the structure's continued designation as a "historic structure."

THRESHOLD PLANNING QUANTITY (TPQ) – A quantity designated for each chemical on the list of extremely hazardous substances that triggers notification by facilities to the State that such facilities are subject to emergency planning requirements.

VARIANCE - A grant of relief to a person from the requirement of this ordinance when specific enforcement would result in unnecessary hardship. A variance, therefore, permits construction or development in a manner otherwise

prohibited by this ordinance. (For full requirements see Section 60.6 of the National Flood Insurance Program regulations).

VIOLATION - The failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in Section

60.3(b)(5), (c)(4), (c)(10), (d)(3), (e)(2), (e)(4), or (e)(5) is presumed to be in violation until such time as that documentation is provided.

WATER SURFACE ELEVATION - The height, in relation to the North American

Vertical Datum (NAVD) of 1988 (or other datum, where specified), of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.

30-11-103. GENERAL PROVISIONS

A. *Lands to which this Ordinance applies.* The ordinance shall apply to all Special Flood Hazard Areas and areas removed from the floodplain by the issuance of a FEMA Letter of Map Revision Based on Fill (LOMR-F) within the jurisdiction of Berthoud, Colorado.

B. *Basis for establishing the special flood hazard area.* The Special Flood Hazard Areas identified by the Federal Emergency Management Agency in a scientific and engineering report entitled, *"Flood Insurance Study, Larimer County, Colorado, and Incorporated Areas, Effective January 15, 2021"*; and "*Flood Insurance Study, Weld County, Colorado, and Incorporated Areas, Effective September 26, 2024"*, with accompanying Flood Insurance Rate Maps and/or Flood Boundary-Floodway Maps (FIRM and/or FBFM) and any revisions thereto are hereby adopted by reference and declared to be a part of this ordinance. These Special Flood Hazard Areas identified by the FIS and attendant mapping are the minimum area of applicability of this ordinance and may be supplemented by studies designated and approved by the Town of Berthoud. The Floodplain Administrator shall keep a copy of the Flood Insurance Study (FIS), DFIRMs, and FIRMs on file and available for public inspection.

C. *Establishment of floodplain development permit.* A Floodplain Development Permit shall be required to ensure conformance with the provisions of this ordinance.

D. *Compliance.* No structure or land shall hereafter be located, altered, or have its use changed within the Special Flood Hazard Area without full compliance with the terms of this ordinance and other applicable regulations. Nothing herein shall prevent the Town of Berthoud from taking such lawful action as is necessary to prevent or remedy any violation. These regulations meet the minimum requirements as set forth by the Colorado Water Conservation Board and the National Flood Insurance Program.

E. *Abrogation and greater restrictions.* This ordinance is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this ordinance and another ordinance, easement, covenant, nor deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

F. *Interpretation.* In the interpretation and application of this ordinance, all provisions shall be:
   1. Considered as minimum requirements;
   2. Liberally construed in favor of the governing body; and
   3. Deemed neither to limit nor repeal any other powers granted under State statutes.

G. *Warning and disclaimer of liability.* The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. On rare occasions greater floods can and will occur and flood heights may be increased by man-made or natural causes.

This ordinance does not imply that land outside the Special Flood Hazard Area or uses permitted within such areas will be free from flooding or flood damages. This ordinance shall not create liability on the part of the Community or any official or employee thereof for any flood damages that result from reliance on this Ordinance, or any administrative decision lawfully made thereunder.

H. *Severability.* This ordinance and the various parts thereof are hereby declared to be severable. Should any section of this ordinance be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the ordinance as a whole, or any portion thereof other than the section so declared to be unconstitutional or invalid.

30-11-104. ADMINISTRATION

A. *Designation of the Floodplain Administrator.* The Town Engineer, or their assignee is hereby appointed as Floodplain Administrator to administer, implement and enforce the provisions of this ordinance and other appropriate sections of 44 CFR (National Flood Insurance Program Regulations) pertaining to floodplain management.

B. *Duties and responsibilities of the Floodplain Administrator.* Duties and responsibilities of the Floodplain Administrator shall include, but not be limited to, the following:
   1. Maintain and hold open for public inspection all records pertaining to the provisions of this ordinance, including the actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures and any floodproofing certificate required by the Section on Permit Procedures.
   2. Review, approve, or deny all applications for Floodplain Development Permits required by adoption of this ordinance.
   3. Review Floodplain Development Permit applications to determine whether a proposed building site, including the placement of manufactured homes, will be reasonably safe from flooding.
   4. Review permits for proposed development to assure that all necessary permits have been obtained from those Federal, State or local governmental agencies (including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334) from which prior approval is required.
   5. Inspect all development at appropriate times during the period of construction to ensure compliance with all provisions of this ordinance, including proper elevation of the structure.
   6. Where interpretation is needed as to the exact location of the boundaries of the Special Flood Hazard Area (for example, where there appears to be a conflict between a mapped boundary and actual field conditions) the Floodplain Administrator shall make the necessary interpretation.
   7. When Base Flood Elevation data has not been provided in accordance with the Section on the Basis for Establishing the Special Flood Hazard Area, the Floodplain Administrator shall obtain, review and reasonably utilize any Base Flood Elevation data and Floodway data available from a Federal, State, or other source, in order to administer the provisions of the Section on Provisions for Flood Hazard Reduction.
   8. For waterways with Base Flood Elevations for which a regulatory Floodway has not been designated, no new construction, substantial improvements, or other development (including fill) shall be permitted within Zones A1-30 and AE on the community's FIRM, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one-half foot at any point within the community.
   9. Under the provisions of 44 CFR Chapter 1, Section 65.12, of the National Flood Insurance Program regulations, a community may approve certain development in Zones A1-30, AE, AH, on the community's FIRM which increases the water surface elevation of the base flood by more than one-half foot, provided that the community first applies for a conditional FIRM revision through FEMA (Conditional Letter of Map Revision), fulfills the requirements for such revisions as established under the provisions of Section 65.12 and receives FEMA approval.
   10. Notify, in riverine situations, adjacent communities and the State Coordinating Agency, which is the Colorado Water Conservation Board, prior to any alteration or relocation of a watercourse, and submit evidence of such notification to FEMA.
   11. Ensure that the flood carrying capacity within the altered or relocated portion of any watercourse is maintained.

C. *Permit Procedures*. Application for a Floodplain Development Permit shall be presented to the Floodplain Administrator on forms furnished by him/her and may include, but not be limited to, plans in duplicate drawn to scale showing the location, dimensions, and elevation of proposed landscape alterations, existing and proposed structures, including the placement of manufactured homes, and the location of the foregoing in relation to Special Flood Hazard Area. Additionally, the following information is required:
   1. Elevation (in relation to mean sea level), of the lowest floor (including basement) of all new and substantially improved structures;
   2. Elevation in relation to mean sea level to which any nonresidential structure shall be floodproofed;
   3. A certificate from a registered Colorado Professional Engineer or architect that the nonresidential floodproofed structure shall meet the floodproofing criteria found in the Section of Provisions for Flood Hazard Reduction and specifically Specific Standards for Construction;
   4. Description of the extent to which any watercourse or natural drainage will be altered or relocated as a result of proposed development.
   5. Maintain a record of all such information in accordance with the Section on the Duties and Responsibilities of the Floodplain Administrator.
   6. Approval or denial of a Floodplain Development Permit by the Floodplain Administrator shall be based on all of the provisions of this ordinance and the following relevant factors:
      a. The danger to life and property due to flooding or erosion damage;
      b. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
      c. The danger that materials may be swept onto other lands to the injury of others;
      d. The compatibility of the proposed use with existing and anticipated development;
      e. The safety of access to the property in times of flood for ordinary and emergency vehicles;
      f. The costs of providing governmental services during and after flood conditions including maintenance and repair of streets and bridges, and public utilities and facilities such as sewer, gas, electrical and water systems;
      g. The expected heights, velocity, duration, rate of rise and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site;
      h. The necessity to the facility of a waterfront location, where applicable;
      i. The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;
      j. The relationship of the proposed use to the comprehensive plan for that area.

D. Variance Procedures.
   1. The Appeal Board, as established by the Community, shall hear and render judgment on requests for variances from the requirements of this ordinance.
   2. The Appeal Board shall hear and render judgment on an appeal only when it is alleged there is an error in any requirement, decision, or determination made by the Floodplain Administrator in the enforcement or administration of this ordinance.
   3. Any person or persons aggrieved by the decision of the Appeal Board may appeal such decision in the courts of competent jurisdiction.
   4. The Floodplain Administrator shall maintain a record of all actions involving an appeal and shall report variances to the Federal Emergency Management Agency upon request.
   5. Variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing the relevant factors in Section C of this Article have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases.
   6. Upon consideration of the factors noted above and the intent of this ordinance, the Appeal Board may attach such conditions to the granting of variances as it deems necessary to further the purpose and objectives of this ordinance as stated in the Statement of Purpose Section.

7. Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
8. Variances may be issued for the repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.
9. Prerequisites for granting variances:
    a. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
    b. Variances shall only be issued upon:
        i. Showing a good and sufficient cause;
        ii. A determination that failure to grant the variance would result in exceptional hardship to the applicant, and
        iii. A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.
    c. Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with the lowest floor elevation below the Base Flood Elevation, and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.
10. Variances may be issued by a community for new construction and substantial improvements and for other development necessary for the conduct of a Functionally Dependent Use provided that:
    a. The criteria outlined in the Administration Section and Specifically the Variance Procedures Section, and
    b. The structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.

E. *Penalties for noncompliance*. No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of this Chapter and Title 30 of the Berthoud Municipal Code. Violation of the provisions of this Chapter by failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with conditions) shall proceed through the Enforcement procedures outlined in the Municipal Code.

30-11-105. PROVISIONS FOR FLOOD HAZARD REDUCTION

A. *General Standards.* In all Special Flood Hazard Areas the following provisions are required for all new construction and substantial improvements:
1. All new construction or substantial improvements shall be designed (or modified) and adequately anchored to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;
2. All new construction or substantial improvements shall be constructed by methods and practices that minimize flood damage;
3. All new construction or substantial improvements shall be constructed with materials resistant to flood damage;
4. All new construction or substantial improvements shall be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding;
5. All manufactured homes shall be installed using methods and practices which minimize flood damage. For the purposes of this requirement, manufactured homes must be elevated and anchored to resist flotation, collapse, or lateral movement. Methods of anchoring may include, but are not

limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable State and local anchoring requirements for resisting wind forces.

6. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;
7. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the system and discharge from the systems into flood waters; and,
8. On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

B. *Specific Standards.* In all Special Flood Hazard Areas where base flood elevation data has been provided as set forth in (i) the General Provisions Section, Basis for establishing the Special Flood Hazard Area; (ii) the Administrative Section, Duties and Responsibilities of the Floodplain Administrator item 7; or (iii) the Provisions for Flood Hazard Reduction Section, Standards for Subdivision Proposals, the following provisions are required:

1. RESIDENTIAL CONSTRUCTION.

New construction and Substantial Improvement of any residential structure shall have the lowest floor (including basement), electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities (including ductwork), elevated to one foot above the base flood elevation. Upon completion of the structure, the elevation of the lowest floor, including basement, shall be certified by a registered Colorado Professional Engineer, architect, or land surveyor. Such certification shall be submitted to the Floodplain Administrator.

2. NONRESIDENTIAL CONSTRUCTION

With the exception of Critical Facilities, outlined in Article 5, Section H, new construction and Substantial Improvements of any commercial, industrial, or other nonresidential structure shall either have the lowest floor (including basement), electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities (including ductwork), elevated to one foot above the base flood elevation or, together with attendant utility and sanitary facilities, be designed so that at one foot above the base flood elevation the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.

A registered Colorado Professional Engineer or architect shall develop and/or review structural design, specifications, and plans for the construction, and shall certify that the design and methods of construction are in accordance with accepted standards of practice as outlined in this subsection. Such certification shall be maintained by the Floodplain Administrator, as proposed in the Administration Section, Permit Procedures.

3. ENCLOSURES

New construction and substantial improvements, with fully enclosed areas below the lowest floor that are usable solely for parking of vehicles, building access, or storage in an area other than a basement and which are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters.

Designs for meeting this requirement must either be certified by a registered Colorado Professional Engineer or architect or meet or exceed the following minimum criteria:

a. A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided.
b. The bottom of all openings shall be no higher than one foot above grade.
c. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

4. MANUFACTURED HOMES

All manufactured homes that are placed or substantially improved within Zones A1-30, AH, and AE on the community's FIRM on sites (i) outside of a manufactured home park or subdivision, (ii) in a new manufactured home park or subdivision, (iii) in an expansion to an existing manufactured home park or subdivision, or (iv) in an existing manufactured home park or subdivision on which manufactured home has incurred "substantial damage" as a result of a flood, be elevated on a permanent foundation such that the lowest floor of the manufactured home, electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities (including ductwork), are elevated to one foot above the base flood elevation and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.

All manufactured homes placed or substantially improved on sites in an existing manufactured home park or subdivision within Zones A1-30, AH and AE on the community's FIRM that are not subject to the provisions of the above paragraph, shall be elevated so that either:

a. The lowest floor of the manufactured home, electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities (including ductwork), are one foot above the base flood elevation, or
b. The manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above grade and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.

5. RECREATIONAL VEHICLES

All recreational vehicles placed on sites within Zones A1-30, AH, and AE on the community's FIRM either:

a. Be on the site for fewer than 180 consecutive days,
b. Be fully licensed and ready for highway use, or
c. Meet the permit requirements of the Administration Section, Permit Procedures, and the elevation and anchoring requirements for "manufactured homes" in paragraph (4) of this section.

A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions.

6. PRIOR APPROVED ACTIVITIES

Any activity for which a Floodplain Development Permit was issued by the Town of Berthoud or a CLOMR was issued by FEMA prior to the effective date of the Flood Damage Prevention Ordinance adopting the Berthoud Flood District may be completed according to the standards in place at the time of the permit or CLOMR issuance and will not be considered in violation of this ordinance if it meets such standards.

C. *Standards for areas of shallow flooding (AO/AH Zones).* Located within the Special Flood Hazard Area established in the General Provisions Section, Basis for Establishing the Special Flood Hazard Area, are areas designated as shallow flooding. These areas have special flood hazards associated with base flood depths of 1 to 3 feet where a clearly defined channel does not exist and where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow; therefore, the following provisions apply:

1. RESIDENTIAL CONSTRUCTION

All new construction and Substantial Improvements of residential structures must have the lowest floor (including basement), electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities (including ductwork), elevated above the highest adjacent grade at least one foot above the depth number specified in feet on the community's FIRM (at least three feet if no depth number is specified). Upon completion of the structure, the elevation of the lowest floor, including basement, shall be certified by a registered Colorado Professional

Engineer, architect, or land surveyor. Such certification shall be submitted to the Floodplain Administrator.

2. NONRESIDENTIAL CONSTRUCTION

With the exception of Critical Facilities, outlined in Section regarding Provisions for Flood Hazard Reduction and Standards for Critical Facilities, all new construction and Substantial Improvements of non-residential structures, must have the lowest floor (including basement), electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities (including ductwork), elevated above the highest adjacent grade at least one foot above the depth number specified in feet on the community's FIRM (at least three feet if no depth number is specified), or together with attendant utility and sanitary facilities, be designed so that the structure is watertight to at least one foot above the base flood level with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads of effects of buoyancy. A registered Colorado Professional Engineer or architect shall submit a certification to the Floodplain Administrator that the standards of this Section, as proposed in the Administration, Permit Procedures Section, are satisfied.

Within Zones AH or AO, adequate drainage paths around structures on slopes are required to guide flood waters around and away from proposed structures.

D. *Floodways.* Floodways are administrative limits and tools used to regulate existing and future floodplain development. The State of Colorado has adopted Floodway standards that are more stringent than the FEMA minimum standard (see definition of Floodway in the Definition Section). Located within Special Flood Hazard Area established in the General Provisions, Basis for Establishing the Special Flood Hazard Area, are areas designated as Floodways. Since the Floodway is an extremely hazardous area due to the velocity of floodwaters which carry debris, potential projectiles and erosion potential, the following provisions shall apply:

1. Encroachments are prohibited, including fill, new construction, substantial improvements and other development within the adopted regulatory Floodway *unless* it has been demonstrated through hydrologic and hydraulic analyses performed by a licensed Colorado Professional Engineer and in accordance with standard engineering practice that the proposed encroachment would not result in any increase (requires a No-Rise Certification) in flood levels within the community during the occurrence of the base flood discharge.
2. If the Section on Provisions for Flood Hazard Reduction, Floodways above is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of the Section on Provisions for Flood Hazard Reduction.
3. Under the provisions of 44 CFR Chapter 1, Section 65.12, of the National Flood Insurance Regulations, a community may permit encroachments within the adopted regulatory floodway that would result in an increase in Base Flood Elevations, provided that the community first applies for a CLOMR and floodway revision through FEMA.

E. *Alteration of a watercourse.* For all proposed developments that alter a watercourse within a Special Flood Hazard Area, the following standards apply:

1. Channelization and flow diversion projects shall appropriately consider issues of sediment transport, erosion, deposition, and channel migration and properly mitigate potential problems through the project as well as upstream and downstream of any improvement activity. A detailed analysis of sediment transport and overall channel stability should be considered, when appropriate, to assist in determining the most appropriate design.
2. Channelization and flow diversion projects shall evaluate the residual 100-year floodplain.
3. Any channelization or other stream alteration activity proposed by a project proponent must be evaluated for its impact on the regulatory floodplain and be in compliance with all applicable Federal, State and local floodplain rules, regulations and ordinances.

4. Any stream alteration activity shall be designed and sealed by a registered Colorado Professional Engineer or Certified Professional Hydrologist.
5. All activities within the regulatory floodplain shall meet all applicable Federal, State and Berthoud floodplain requirements and regulations.
6. Within the Regulatory Floodway, stream alteration activities shall not be constructed unless the project proponent demonstrates through a Floodway analysis and report, sealed by a registered Colorado Professional Engineer, that there is not more than a 0.00-foot rise in the proposed conditions compared to existing conditions Floodway resulting from the project, otherwise known as a No-Rise Certification, unless the community first applies for a CLOMR and Floodway revision in accordance with Section D of this Article.
7. Maintenance shall be required for any altered or relocated portions of watercourses so that the flood-carrying capacity is not diminished.

F. *Properties removed from the floodplain by fill.* A Floodplain Development Permit shall not be issued for the construction of a new structure or addition to an existing structure on a property removed from the floodplain by the issuance of a FEMA Letter of Map Revision Based on Fill (LOMR-F), unless such new structure or addition complies with the following:

1. RESIDENTIAL CONSTRUCTION

The lowest floor (including basement), electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities (including ductwork), must be elevated to one foot above the Base Flood Elevation that existed prior to the placement of fill.

2. NONRESIDENTIAL CONSTRUCTION

The lowest floor (including basement), electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities (including ductwork), must be elevated to one foot above the Base Flood Elevation that existed prior to the placement of fill, or together with attendant utility and sanitary facilities be designed so that the structure or addition is watertight to at least one foot above the base flood level that existed prior to the placement of fill with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads of effects of buoyancy.

G. *Standards for Subdivision proposals*.

1. All subdivision proposals including the placement of manufactured home parks and subdivisions shall be reasonably safe from flooding. If a subdivision or other development proposal is in a flood-prone area, the proposal shall minimize flood damage.
2. All proposals for the development of subdivisions including the placement of manufactured home parks and subdivisions shall meet Floodplain Development Permit requirements of General Provisions, Basis for Establishing the Special Flood Hazard Area; Administration, Permit Procedures; and the provisions of the Section on Provisions for Flood Hazard Reduction of this ordinance.
3. Base Flood Elevation data shall be generated for subdivision proposals and other proposed development including the placement of manufactured home parks and subdivisions which is greater than 50 lots or 5 acres, whichever is lesser, if not otherwise provided pursuant to the General Provisions and Administration sections of this ordinance.
4. All subdivision proposals including the placement of manufactured home parks and subdivisions shall have adequate drainage provided to reduce exposure to flood hazards.
5. All subdivision proposals including the placement of manufactured home parks and subdivisions shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize or eliminate flood damage.

H. *Standards for critical facilities*. A Critical Facility is a structure or related infrastructure, but not the land on which it is situated, as specified in Rule 6 of the Rules and Regulations for Regulatory Floodplains in

Colorado, that if flooded may result in significant hazards to public health and safety or interrupt essential services and operations for the community at any time before, during and after a flood.

1. Classification of critical facilities. It is the responsibility of the Town of Berthoud to identify and confirm that specific structures in their community meet the following criteria:
    a. Critical Facilities are classified under the following categories: (a) Essential Services; (b) Hazardous Materials; (c) At-risk Populations; and (d) Vital to Restoring Normal Services.
    b. Essential services facilities include public safety, emergency response, emergency medical, designated emergency shelters, communications, public utility plant facilities, and transportation lifelines.
    c. These facilities consist of:
        i. Public safety (police stations, fire and rescue stations, emergency vehicle and equipment storage, and, emergency operation centers);
        ii. Emergency medical (hospitals, ambulance service centers, urgent care centers having emergency treatment functions, and non-ambulatory surgical structures but excluding clinics, doctors offices, and non-urgent care medical structures that do not provide these functions);
        iii. Designated emergency shelters;
        iv. Communications (main hubs for telephone, broadcasting equipment for cable systems, satellite dish systems, cellular systems, television, radio, and other emergency warning systems, but excluding towers, poles, lines, cables, and conduits);
        v. Public utility plant facilities for generation and distribution (hubs, treatment plants, substations and pumping stations for water, power and gas, but not including towers, poles, power lines, buried pipelines, transmission lines, distribution lines, and service lines); and
        vi. Air Transportation lifelines (airports (municipal and larger), helicopter pads and structures serving emergency functions, and associated infrastructure (aviation control towers, air traffic control centers, and emergency equipment aircraft hangars).
    d. Specific exemptions to this category include wastewater treatment plants (WWTP), non-potable water treatment and distribution systems, and hydroelectric power generating plants and related appurtenances.
    e. Public utility plant facilities may be exempted if it can be demonstrated to the satisfaction of the Town of Berthoud that the facility is an element of a redundant system for which service will not be interrupted during a flood. At a minimum, it shall be demonstrated that redundant facilities are available (either owned by the same utility or available through an intergovernmental agreement or other contract) and connected, the alternative facilities are either located outside of the 100-year floodplain or are compliant with the provisions of this Article, and an operations plan is in effect that states how redundant systems will provide service to the affected area in the event of a flood. Evidence of ongoing redundancy shall be provided to the Town of Berthoud on an as-needed basis upon request.
    f. Hazardous materials facilities include facilities that produce or store highly volatile, flammable, explosive, toxic and/or water-reactive materials. These facilities may include:
        i. Chemical and pharmaceutical plants (chemical plant, pharmaceutical manufacturing);
        ii. Laboratories containing highly volatile, flammable, explosive, toxic and/or water-reactive materials;
        iii. Refineries;
        iv. Hazardous waste storage and disposal sites; and
        v. Above ground gasoline or propane storage or sales centers.
    g. Facilities shall be determined to be Critical Facilities if they produce or store materials in excess of threshold limits. If the owner of a facility is required by the Occupational Safety and Health Administration (OSHA) to keep a Material Safety Data Sheet (MSDS) on file for any chemicals stored or used in the work place, AND the chemical(s) is stored in quantities equal to or greater

than the Threshold Planning Quantity (TPQ) for that chemical, then that facility shall be considered to be a Critical Facility. The TPQ for these chemicals is: either 500 pounds or the TPQ listed (whichever is lower) for the 356 chemicals listed under 40 C.F.R. § 302 (2010), also known as Extremely Hazardous Substances (EHS); or 10,000 pounds for any other chemical. This threshold is consistent with the requirements for reportable chemicals established by the Colorado Department of Health and Environment. OSHA requirements for MSDS can be found in 29 C.F.R. § 1910 (2010). The Environmental Protection Agency (EPA) regulation "Designation, Reportable Quantities, and Notification," 40 C.F.R. § 302 (2010) and OSHA regulation "Occupational Safety and Health Standards," 29 C.F.R. § 1910 (2010) are incorporated herein by reference and include the regulations in existence at the time of the promulgation this Ordinance but exclude later amendments to or editions of the regulations. Specific exemptions to this category include the following:

i. Finished consumer products within retail centers and households containing hazardous materials intended for household use, and agricultural products intended for agricultural use.
ii. Buildings and other structures containing hazardous materials for which it can be demonstrated to the satisfaction of the local authority having jurisdiction by hazard assessment and certification by a qualified professional (as determined by the local jurisdiction having land use authority) that a release of the subject hazardous material does not pose a major threat to the public.
iii. Pharmaceutical sales, use, storage, and distribution centers that do not manufacture pharmaceutical products.

These exemptions shall not apply to buildings or other structures that also function as Critical Facilities under another category outlined in this Article.

h. At-risk population facilities include medical care, congregate care, and schools. These facilities consist of:
   i. Elder care (nursing homes);
   ii. Congregate care serving 12 or more individuals (day care and assisted living);
   iii. Public and private schools (pre-schools, K-12 schools), before-school and after-school care serving 12 or more children);

i. Facilities vital to restoring normal services including government operations. These facilities consist of:
   i. Essential government operations (public records, courts, jails, building permitting and inspection services, community administration and management, maintenance and equipment centers);
   ii. Essential structures for public colleges and universities (dormitories, offices, and classrooms only).

These facilities may be exempted if it is demonstrated to the Town of Berthoud that the facility is an element of a redundant system for which service will not be interrupted during a flood. At a minimum, it shall be demonstrated that redundant facilities are available (either owned by the same entity or available through an intergovernmental agreement or other contract), the alternative facilities are either located outside of the 100-year floodplain or are compliant with this ordinance, and an operations plan is in effect that states how redundant facilities will provide service to the affected area in the event of a flood. Evidence of ongoing redundancy shall be provided to the Town of Berthoud on an as-needed basis upon request.

2. *Protection for critical facilities.* All new and substantially improved Critical Facilities and new additions to Critical Facilities located within the Special Flood Hazard Area shall be regulated to a

higher standard than structures not determined to be Critical Facilities. For the purposes of this ordinance, protection shall include one of the following:

a. Location outside the Special Flood Hazard Area; or
b. Elevation of the lowest floor or floodproofing of the structure, together with attendant utility and sanitary facilities, to at least two feet above the Base Flood Elevation.

3. *Ingress and egress for new critical facilities.* New Critical Facilities shall, when practicable as determined by the Town of Berthoud, have continuous non-inundated access (ingress and egress for evacuation and emergency services) during a100-year flood event.

SECTION 12 SHORT TERM RENTALS

30-12-101 – Short-term Rentals

A. Purpose. The purpose of these regulations is to allow short-term rentals through a licensing process within the regulatory boundaries of the Town. These regulations are to assist in protecting the health, safety, and welfare of property owners, neighbors, and occupants.

B. Applicability. These regulations apply to all uses meeting the definition of short-term rental. Private covenants running with the land may restrict or prohibit short-term rentals; it is the responsibility of the property owner, not the Town, to ensure compliance with restrictive covenants.

C. License Required. No person shall rent a principal dwelling as a short-term rental as defined in this Chapter to a transient guest(s) without first obtaining a short-term rental business license issued by the Town and complying with any conditions or restrictions thereof. A short-term rental business license may be issued by the Town Administrator, or Designee, upon finding that the requirements of this Section (30-3-113) are met.

1. The short-term rental business license shall be valid for one year and is subject to annual license renewal as prescribed by the Town. Failure to complete the license renewal shall be cause for revocation of the license approval and may subject the short-term rental to the limitations of the cap.
2. In determining whether to renew a short-term rental business license, the Town Administrator, or Designee, will consider the history of any violations of the short-term rental business license and any documented complaints from nearby property owners or lessees.
3. The short-term rental business license is not transferable to any person upon sale or other transfer of ownership of the property nor is a short-term rental business license transferable from one property to another without first receiving written approval from the Town.
4. A property owner shall obtain no more than two (2) short-term rental business licenses in the Town at any given time.
5. A copy of the business license shall be prominently displayed within the short-term rental unit (such as next to the front entrance).
6. The short-term rental business license number shall be included in all advertisements with any lodging or booking agency or website designed to find customers.

D. General Standards.

1. The maximum number of short-term rentals in the Town shall not exceed fifty (50). An application for a new short-term rental shall be processed on a first-come-first-served basis. No applications for a short-term rental will be accepted if the maximum number has been met
2. A short-term rental must be a minimum of 200 feet from another short-term rental. This distance is measured from center of principal dwelling to center of principal dwelling.
3. Only one short-term rental shall be allowed on a property. A short-term rental shall not be allowed in multi-family apartment dwellings, as defined by this code.
4. A short-term rental shall only be conducted in a legally constructed dwelling unit.
5. The total number of occupants or guests of the short-term rental unit shall not exceed two (2) persons per bedroom plus two (2) additional persons per property, but in no instance shall the maximum number of occupants or guests exceed ten (10) total persons.
6. The required minimum number of guest parking spaces for the short-term rental, noted in the table below, shall be provided on-site in a garage, on the driveway, or in a parking lot for multi-unit buildings or developments. One (1) on-street parking space located within one block of the short-term rental shall be counted toward the required minimum number of on-site parking spaces for those properties that do not have a garage and/or driveway. If the short-term rental does not have the required minimum number of on-site guest parking spaces, as required in the table below, but can provide a portion of the required number, the provided number of guest

parking spaces shall determine the maximum number of allowed guests. The minimum number of off-street parking spaces required are as follows:

Number of Bedrooms in STR Unit	Number of Off-Street Parking Spaces
1-2	1
3-4	3
5	4

7. In multi-unit buildings or developments, only parking spaces that are specifically designated for the dwelling unit shall be used for the short-term rental guest parking. Guest or overflow parking for the development shall not be used as parking for the short-term rental.
8. No person shall be permitted to stay overnight in any motor vehicle, including but not limited to a recreational vehicle, travel trailer, tent, or other outdoor structures on the short-term rental property.
9. The short-term rental shall not be used and/or advertised as an event space, be it a commercial event or large social gathering such as weddings, commercial or corporate events.
10. There shall be no change to the outside appearance of the dwelling or premises or other visible evidence of the conduct of such short-term rental and shall not disturb the neighborhood character.

E. Safety Standards.

1. The short-term rental must undergo and pass a life-safety inspection or other required building inspections at the time of initial licensing and on an annual basis accompanying the annual license renewal to ensure compliance with the Town's Building Code. The Life Safety Inspection shall be conducted by the Town Building Official, or Designee.
2. Unless already equipped with an approved automatic fire sprinkler system or installing one with a building permit and/or fire permit, approved fire extinguishers shall be installed in readily accessible and visible locations for immediate use in the following locations within the short-term rental:
    a) In each room with a cooking appliance, fireplace, heating appliance, or water heater.
    b) Inside and adjacent to the door leading to a deck, porch, or patio with such appliances.
    c) At least one on each story.
3. The property owner shall ensure that the short-term rental contains the following on the premises at all times:
    a) The required number of smoke detectors in good working order;
    b) The required number of carbon monoxide detectors in good working order;
    c) Adequate and functional building egress from each sleeping room in the dwelling; and
    d) Posted egress maps.
4. A sign containing the following information shall be posted at each interior entrance and exit of the short-term rental:
    a) The property address.
    b) The maximum number of occupants or guests permitted to stay in the short-term rental as approved by the Town.
    c) Contact information for the Fire Department and Police/Sheriff Department.
    d) Contact information for the short-term rental property manager or property owner.
5. The short-term rental shall be equipped with an operations manual/users guide that is in a visible location (such as a kitchen counter or entry table). The operations manual shall include standard contents as determined and approved by the Town at the time of application.
6. The property owner shall designate a local property manager who shall be available 24 hours per day, 7 days per week to respond to complaints about or violations of law or of license terms.

Local as used herein means having a permanent address within a 20-mile radius from the short-term rental property and a 24-hour contact phone number. The designated local property manager must be able to affirmatively respond to complaints within one hour of notification of such complaint. The designated local property manager's contact information shall be posted in the operations manual located in the short-term rental. Changes to the contact information for the designated local property manager shall be provided to the Town Community Development Department within five business days of the change in contact information. The designated local property manager may be the owner of the property if they meet the *local* criteria.

7. The property owner shall provide a written notice, on a form approved by the Town, of the short-term rental approval to all property owners within 500 feet of the subject property. Such notice shall be mailed within ten (10) days following the date of short-term rental approval.
8. The property owner shall maintain and provide proof of property liability insurance adequate for a short-term rental or provide proof that property liability coverage is provided by any and all hosting platforms through which the owner will rent the short-term rental unit.

F. Taxes, Records, Enforcement.

1. A short-term rental is subject to lodging, sales, and other applicable taxes. A short-term rental business license holder who fails to collect and remit lodging taxes on a short-term rental during the license period shall not be permitted to renew the license for the following two-years, and the property may become subject to the limitations of the cap.
2. The property owner shall maintain records of occupancy for the short-term rental unit, including total number of nights the short-term rental was rented to a guest and the dates in which the short-term rental was rented by a guest. The records shall be made available to the Town, upon request, for review and inspection at any time.
3. A short-term rental business license constitutes a permit, and this Section shall be enforced in accordance with Section 5 of the Berthoud Development Code.

SECTION 13: NATURAL MEDICINE CODE

30-13-101 Authority; relationship to other laws

A. The Town Board of Trustees hereby finds and declares that it has the power to adopt this Section and the prohibitions set forth herein pursuant to Part 1 of Article 50 Colorado Natural Medicine Code of Title 44 of the Colorado Revised Statutes, and Part 3 of Article 50 License Types of Title 44 of the Colorado Revised Statutes; the Town of Berthoud Municipal Code; and Article 20 of Title 29 Local Government Regulation of Land Use, Article 15 Exercise of Municipal Powers, and Part 3 of Article 23 Zoning of Title 31 of the Colorado Revised Statutes, as may be amended from time to time.

B. This Section is known and may be cited as the "Berthoud Natural Medicine Code." Reference to the Berthoud Natural Medicine Code and the applicable section or sections thereof shall be sufficient when citing the provisions of this Section in any legal document, including, but not limited to, summons, subpoena, pleading, summons and complaint, and memorandum.

C. All natural medicine businesses shall meet the requirements of the Colorado Natural Medicine Code, all other applicable state laws, the Colorado Regulated Natural Medicine Rules, as promulgated by the department of revenue and the Natural Medicine License Rules and Regulations, as promulgated by the department of regulatory agencies. The Colorado Regulated Natural Medicine Rules and the Natural Medicine License Rules and Regulations as either or both may be amended are collectively referred to in this Section as the Colorado Natural Medicine Rules.

D. All persons cultivating natural medicine, and operating natural medicine cultivation facilities, testing facilities, products manufacturing facilities, and natural medicine healing centers shall meet the requirements of the Town of Berthoud Development Code, as provided in Chapter 30 of the Berthoud Municipal Code, including all applicable overlay district provisions and standards. For example, a person redeveloping any land for any such shall meet the requirements of the then current site design, architectural and landscaping standards.

30-13-102 Purpose

The Town Board of Trustees declares that the purpose of this Section is to provide for the regulation of natural medicine businesses within the Town for the purpose of protecting the health, safety, and welfare of Berthoud residents and guests.

30-13-103 Definitions

As used in this Section, unless the context clearly requires otherwise, the following words and terms shall have the meanings set forth in this Section. Other definitions not specifically enumerated in this Section shall be as defined, as applicable, in the Colorado Natural Medicine Code, and the Colorado Natural Medicine Rules.

Administration session means a session conducted at a healing center, or other location if permitted by the Colorado Natural Medicine Code or Colorado Natural Medicine Rules, during which a participant consumes and experiences the effects of natural medicine under the supervision of a facilitator.

Colorado Natural Medicine Code means Article 50 of Title 44 of the Colorado Revised Statutes, as may be amended from time to time.

Colorado Natural Medicine Rules means those rules governing state-licensed natural medicine businesses and state-licensed facilitators as set forth in the Colorado Code of Regulations, 1 CCR 213-1 and 4 CCR 755-1, as may be amended from time to time.

Facilitator means an individual who is 21 years of age or older; has the necessary qualifications, training, experience, and knowledge, as required pursuant to the Colorado Natural Medicine Rules, to perform and supervise natural medicine services for a participant(s); and is licensed by the director of the department of regulatory agencies division of professions and occupations to engage in the practice of facilitation.

Healing center means a facility where an entity is licensed by the state licensing authority that permits a facilitator to provide and supervise natural medicine services for a participant.

Micro-healing center means a healing center licensee tier which is not permitted to store more than 750 milligrams of total psilocin on site.

Natural medicine business means any healing center, natural medicine cultivation facility, natural medicine products manufacturer, or natural medicine testing facility, licensed to operate pursuant to the Colorado Natural Medicine Code.

Natural medicine cultivation facility means a facility licensed by the state licensing authority where regulated natural medicine is grown, harvested, and prepared in order to be transferred and distributed to either a healing center, facilitator, a natural medicine products manufacturer, or to another natural medicine cultivation facility.

Natural medicine products manufacturer means a person licensed by the state licensing authority who manufactures regulated natural medicine products for transfer to a healing center, facilitator, or to another natural medicine products manufacturer.

Natural medicine services means a preparation session, administration session, and a post-administration integration session.

Natural medicine testing facility means a public or private laboratory licensed or approved by the department of revenue division of natural medicine to perform testing and research on regulated natural medicine and regulated natural medicine products.

Participant means a person who is 21 years of age or older and who receives natural medicine services performed by or under the supervision of a facilitator.

Regulated natural medicine means natural medicine that is cultivated, manufactured, tested, stored, distributed, transported, transferred, or dispensed pursuant to the Colorado Natural Medicine Code.

State licensing authority means the executive director of the Colorado Department of Revenue.

30-13-104 Location of licensed natural medicine businesses.

A. *Where natural medicine cultivation facilities, testing facilities, and products manufacturers permitted.* Natural medicine cultivation facilities, natural medicine testing facilities, and natural medicine products manufacturers are permitted only in the Industrial M1 and M2 zone districts and on land appropriately zoned and only on land located 100' north of Mountain Avenue, south of Bunyan Avenue, east of the rail line and west of 1st Street. The distance of which is measured in a linear (straight line) manner from edge of property to edge of property.

B. *Where healing centers permitted.* Natural medicine healing centers and micro-healing centers are permitted only in the Commercial C1 and C2, and Suburban and Urban Commercial/Business zone districts except for those located on Mountain Avenue between 6th Street and 1st Street, and in addition, must be at least 1,000 feet from any childcare center, residential childcare center, preschool, elementary school, middle school, or high school. The distance shall be computed by direct measurement from the nearest property line of the land used for a school or facility to the nearest portion of the building in which natural medicine services are provided, using a route of direct pedestrian access. The distance of which is measured in a linear (straight line) manner from edge of property to edge of property.

C. *Separation of similar uses*. There shall be a distance of at least 1,000 feet between natural medicine cultivation facilities, natural medicine testing facilities, and natural medicine products manufacturers. The distance shall be computed by direct measurement from the nearest property line of the land used for a facility or manufacturer to the nearest portion of the building in which the facility or manufacturer is housed, using a route of direct pedestrian access.

D. *Permanent location required.* Natural medicine businesses must be operated from a permanent location. Natural medicine businesses are prohibited from operating from or storing regulated natural medicine or natural medicine products in a moveable, mobile, or transitory location.

1. All storage of natural medicine and natural medicine product shall be in a secured and locked container. Natural medicine cultivation facilities shall ensure that any natural medicine under cultivation is kept in an enclosed locked area.

2. No natural medicine business shall be operated as a home occupation; this does not preclude facilitators from providing natural medicine services at a person's residence in compliance with the Colorado Natural Medicine Rules and other applicable state regulations.

3. Healing centers and micro-healing centers shall not operate outside of the hours of 7 a.m. to 7 p.m., Monday through Saturday.

E. *Public View*. All doorways, windows and other openings of a natural medicine business shall be located, covered or screened in such a manner as to prevent a view into the interior of said businesses. All activities associated with natural medicine businesses shall occur indoors.

1. The primary entrance shall face the street.

F. *Processing*. The processing of natural medicine that includes the use of hazardous materials, including, without limitation, and by way of example, flammable and combustible liquids, carbon dioxide, and liquified petroleum gases, such as butane, is prohibited.

1. Nonhazardous materials used to process natural medicine shall be stored in a manner so as to mitigate and ensure odors are not detectable beyond the property boundaries on which the processing facility is located or the exterior walls of the processing facility associated with the processing of natural medicine.

2. The processing of natural medicine shall meet the requirements of all adopted Town building and life/safety codes.

3. The processing of natural medicine shall meet all of the requirements of all adopted water and sewer regulations promulgated by the applicable water and sewer provider.

G. *Lighting.* All facility lighting shall comply with the lighting standards of the Berthoud Municipal Code. In addition, primary entrances, parking lots and exterior walkways shall be clearly illuminated with downward facing lights to provide for after-dark visibility for all patrons, employees and the general public.

H. *Security*. The following shall apply to all natural medicine healing centers and all other natural medicine businesses.

1. A security plan for the secure storage of natural medicine and natural medicine products approved by the Colorado Natural Medicine Division shall be provided to the Town prior to beginning operation, and shall provide any updated plans to the Town within ten (10) business days.

2. Video surveillance recordings shall be retained for a minimum of sixty (60) days and shall be in a digital format that can be easily accessed for viewing and that ensures authentication of the recording as the full unedited version.

a. Video surveillance shall provide coverage of all facility entrances and exits.

b. Video surveillance recordings shall be maintained in a locked area on the licensed premises.

c. Video surveillance recordings shall be duplicated and stored at a secure off-site location or through a network (cloud) service that provides on-demand access to the recordings. The off-site location or network service provider shall be included in the security plan submitted to the Town and updated within seventy-two (72) hours of any change to the location or provider.

d. Video surveillance records and recordings must be made available immediately upon request of the state licensing authority, or Town police department.

e. If video surveillance or storage equipment becomes inoperable or storage network service becomes disabled, the natural medicine healing center or other natural medicine business shall cease all transactions and require all patrons to exit the building until the equipment or network service is made operable.

3. A monitored security alarm shall be present to provide coverage of all facility entrances and exits, rooms with exterior windows, rooms with interior walls or walls shared with other building tenants, roof hatches, skylights, and storage rooms containing safes or vaults.

I. *Odor from Natural Medicine Business.* An air filtration and ventilation system shall be designed and installed to ensure the odors from a natural medicine business are confined to the premises and are not detectable or discernible beyond the property boundaries of the land on which the licensed premises is located.

J. *Nuisance*. It is unlawful and deemed a nuisance under this Code to dispose of, discharge out of or from, or permit to flow from any facility associated with natural medicine, any foul or noxious liquid or substance of any kind whatsoever, including, without limitation, by-products of the natural medicine process, into or upon any adjacent ground or lot, into any street, alley or public place, or into any municipal storm sewer, sanitary sewer, potable water, or non-potable water system in the Town.

K. Waste product, remnants or byproduct. Natural medicine businesses shall provide for secure disposal of natural medicine waste product, remnants or byproduct. Natural medicine waste, remnants and/or byproduct shall not be placed in the facilities' exterior waste container, nor shall it be in any way accessible to the public.

L. *Unlawful conduct.*

It shall be deemed unlawful for any natural medicine business to violate any provision of the Berthoud Natural Medicine Code. It shall further be deemed unlawful for any natural medicine business to administer natural medicine to a minor, a visibly intoxicated person, or anyone who is not otherwise eligible or appropriate for administration of natural medicine under state laws.

M. *Unlawful cultivation of natural medicine*

1. It shall be unlawful for any person to knowingly cultivate natural medicine that cumulatively exceeds an area of more than twelve- (12) feet wide by twelve- (12) feet long in one or more cultivation areas on private property.

2. It shall be unlawful for any person that owns, occupies, or controls private property to knowingly allow the cultivation of natural medicine that cumulatively exceeds an area of more than twelve- (12) feet wide by twelve- (12) feet long in one or more cultivation areas on such private property.

3. It shall be unlawful for any person to knowingly cultivate natural medicine on private property outside of an enclosed and locked space.

4. It shall be unlawful for any person that owns, occupies, or controls private property to knowingly allow the cultivation of natural medicine on such private property outside of an enclosed and locked space.

5. It shall not be a violation off Subsections (c) and (d) above if the person cultivating natural medicine is twenty-one (21) years of age or older, if the cultivation area is locked in a dwelling on the private property; provided that if a person under twenty-one (21) years of age lives at the dwelling, the cultivation area itself is enclosed and locked; or if a person is under twenty-one (21) years of age enters a dwelling that contains external locks, the person cultivating the natural medicine shall ensure that access to the cultivation area is reasonably restricted for the duration of the person under twenty-one (21) years of age's presence in the private property.

N. *Severability.*

If any clause, sentence, or paragraph, or part of this ordinance shall be held invalid, the validity of the remainder of this ordinance shall not be invalidated or effected thereby.

30-14-101 Marijuana Businesses

A. Allowed/Disallowed. It shall be unlawful to operate a marijuana business in the Town of Berthoud unless it is an allowed marijuana business as defined in the definition section of this Chapter. Unless the context requires otherwise, the term "marijuana business" as used in the definition section of this Chapter means an allowed marijuana business. It shall be unlawful to operate a retail marijuana cultivation facility or a retail marijuana products manufacturing business that is not co-located on the same parcel of land as a retail marijuana store. It shall be unlawful to operate a medical marijuana cultivation facility or a medical marijuana products manufacturing business that is not co-located on the same parcel of land as a medical marijuana store.

B. Compliance with State laws. This section applies to allowed marijuana businesses within the Town of Berthoud and terms not defined herein shall have the meaning set forth in Section 44-10-103 C.R.S., as amended. All marijuana businesses shall be comply with all applicable state statutes, as the same may be amended, and those regulations which are and will be adopted by the Colorado Department of Health and Environment and Colorado Department of Revenue .

C. Review process. Applications for Use by Special Review for any allowed, marijuana business must be submitted in conformance with Use by Special Review Permit application process and provision of this Code including the procedures found in the Subdivision and Land Use Process and Procedures Table.

D This includes applications for allowed marijuana businesses whether co-located or not.

1. Notice shall be given in accordance with the public hearing and general notice provisions found in this Chapter.

2. Unless otherwise provided in the resolution approving it, the allowed marijuana business shall be commenced within six months of the date of such approval; otherwise, the allowed marijuana business Special Use Permit shall be null and void.

E. Permitted zoning districts. Applications for all uses identified above shall only be accepted for properties located in the M1: Limited Industrial and M2: Industrial zone districts as designated north of Mountain Avenue, south of Bunyan Avenue, east of the rail line, and west of 1st Street. Allowed marijuana businesses shall not be permitted on properties located on Mountain Avenue.

F. Use by Special Review criteria. In their review of applications for any premises or facilities, the Planning Commission and Board of Trustees shall consider, at a minimum, the following factors:

1. The number, type, and availability of allowed marijuana businesses located in or near the location under consideration;

2. That the location must be over 1,000 feet away from established schools, rehabilitation facilities, licensed daycare centers and non-profit centers for the care of minors with such distance measured in a linear (straight line) manner from edge of property to edge of property;

3. That any allowed marijuana buiness may be no closer than 1,000 feet from any other medical marijuana premise or facility with such distance to be measured in a linear (straight line) manner from edge of property to edge of property;

4. The size of the building housing the marijuana business;

5. The proposed security plans;

6. The character, experience and criminal history of all persons involved as management, employees and owners;

7. Sanitary issues, health safety issues, fire safety issues, building code issues and waste water effluent issues;

8. The needs and desires of the community with respect to the requested Use by Special Review permit and specifically, why those needs are not and cannot be met by the existing facility(ies) in the Town of Berthoud at that time. It shall be incumbent upon all applicants to document how the needs of the Berthoud community are not being met by existing premises and/or facilities and to provide data to adequately address this issue.

SECTION 15 OIL AND GAS DRILLING AND PRODUCTION

30-15-101: Purpose, authorities, and application to existing facilities

A. **Intent.** The intent of this section of the Berthoud Municipal Code is to protect public health, safety, welfare, the environment, and wildlife resources within the Town of Berthoud by establishing a regulatory framework for new and existing oil and gas operations that are located in the Town. The Town hereby declares the adoption of the regulations in this section to be necessary and reasonable for the protection of public health, safety, welfare, the environment, and wildlife resources.

B. **Criteria for approval or denial.** The Town will approve oil and gas operations only in locations and in a manner that does not adversely impact the health, safety and welfare of the Town's residents in their workplaces, their homes, their schools, and public places in order to protect the public's health, safety, and welfare, and to safeguard the environment and wildlife resources. The Town will deny applications where the proposed oil and gas operations cannot be conducted in a manner that protects and minimizes adverse impacts to public health, safety, and welfare, and the environment and wildlife.

C. **Authority.** These regulations are authorized by C.R.S. § 25-8-101 *et seq*., 29-20-101 *et seq*., § 30-28-101 *et seq*., § 34-60- 101 *et seq*., § 25-7-101 *et seq*., § 30-15-401, Colorado common law related to public nuisances, and other authority as applicable.

D. **Severability.** If any section, clause, provision, or portion of these regulations should be found to be unconstitutional or otherwise invalid by a court of competent jurisdiction, the remainder of the regulations in this section shall not be affected thereby and the continued adoption of the remainder of the regulations is hereby declared to be necessary for the public health, safety, and welfare, and for the protection of the environment and wildlife resources.

E. **Preexisting facilities**. Oil and gas operations approved prior to the effective date of this Section may continue operating at their established locations and are subject to the public health, safety, welfare, and environmental requirements as specified in this section within one year of the effective date of this section (Ordinance 1336 was adopted on July 9, 2024).

   1. **Modifications of existing facilities.** Any modification of oil and gas operations or facilities that the Town determines to be substantial requires a separate Use by Special Review permit pursuant to the Subdivision and Land Use Sectionof this Chapter. . A substantial modification is any physical change not required by law that substantially increases the site footprint, air emissions, traffic, noise, or risk of spills, or will significantly change the operations of the oil and gas facility. Use of a drilling rig or hydraulic fracturing equipment to re-enter, deepen, or recomplete an existing well into a new geologic formation is a substantial modification. Maintenance activities, the replacement of existing equipment, installation of emission control equipment, and the addition of equipment to fulfill mandated regulatory requirements are not substantial modifications.
   2. **Annual Operator Registration.** Operators with existing oil and gas operations in the Town prior to the effective date of this section will submit the Annual Operator Registration submittal requirements within 90 days after the effective date of this section; or, if not already operating wells in the Town, within 60 days after assuming responsibility for operating existing oil and gas facilities. Operator registration must be updated and renewed annually by January 15. Annual Operator Registration submittal requirements shall include:
      a. An updated Emergency Response Plans as required by the New Oil and Gas Operation Applications and Use by Special Review Permit Section;
      b. An updated Leak Detection and Repair Plan as required by the New Oil and Gas Operation Applications and Use by Special Review Permit Section;
      c. A list of all wells and production information within the Town within the past three years;
      d. A list of any reportable safety events at the Operator's facilities within the Town over the past three years as defined by ECMC Rule 602(g) or successor rules. The Operator shall also list any root cause analyses conducted and corrective actions taken in response to the incidents, including internal changes to corporate practices or procedures;

e. A list of any spills or releases at the Operator's facilities within the Town over the previous three years; and

f. A list of any notices of alleged violations issued by the ECMC or CDPHE related to the Operator's facilities within the Town over the previous three years.

30-15-102: Definitions

Abandonment: the permanent decommissioning of an oil and gas facility, including any single well or portion of pipeline.

Applicant: an Operator submitting an application for a new oil and gas operation pursuant to Use by Special Review processes.

APCD: the Air Pollution Control Division within the Colorado Department of Public Health and Environment.

AQCC: the Air Quality Control Commission within the Colorado Department of Public Health and Environment.

Best Management Practices ("BMPs"): practices that are designed to prevent or reduce impacts caused by oil and gas operations to air, water, soil, or biological resources, and to minimize adverse impacts to public health, safety and welfare, including the environment and wildlife resources.

CDPHE: the Colorado Department of Public Health and Environment.

Child care center: a child care center as defined in § 26-6-903(5), C.R.S. A child care center will include any associated outdoor play areas adjacent to or directly accessible from the center and is fenced or has natural barriers, such as hedges or stationary walls, at least four (4) feet high demarcating its boundary.

Class II water disposal wells: wells that inject fluids which are brought to the surface in connection with natural gas storage operations, or conventional oil or natural gas production and may be commingled with waste waters from gas plants which are an integral part of production operations, unless those waters are classified as a hazardous waste at the time of injection.

Completions or completion phase: the period of hydraulic fracturing, coiling, re-fracturing, installation of tubing, and flowback of one or more wells.

Crude oil transfer line: a piping system that is not regulated or subject to regulation by the U.S. Department of Transportation Pipeline and Hazardous Materials Safety Administration (PHMSA) pursuant to 49 C.F.R. § 195 Subpart A, and that transfers crude oil, crude oil emulsion or condensate from more than one well site or production facility to a production facility with permanent storage capacity greater than 25,000 barrels of crude oil or condensate or a PHMSA gathering system.

Cumulative impacts: the effects on public health and the environment, including the impacts to air quality, water quality, climate, noise, odor, wildlife, and biological resources, caused by the incremental impacts that a proposed new or amended operation would have when added to the impacts from other past, present, and reasonably foreseeable future development of any type on the impact area..

Development Agreement has the same definition as found in Chapter 30 of the Berthoud Municipal Code.

Drilling or drilling phase: the period in which a drilling rig is utilized to penetrate the surface of the earth with a drill bit and the installation of well casing and cement at one or more wells.

Dwelling Unit has the same definition as found in Chapter 30 of the Berthoud Municipal Code.

ECMC: the Colorado Energy and Carbon Management Commission (formerly the Colorado Oil and Gas Conservation Commission).

EPA: the United States Environmental Protection Agency.

Flaring: the combustion of natural gas during upstream oil and gas operations, excluding gas that is intentionally used for onsite processes.

Flowback: the process of allowing fluids and entrained solids to flow from a well following stimulation, either in preparation for a subsequent phase of treatment or in preparation for cleanup and placing the well into production. The term Flowback also means the fluids and entrained solids that emerge from a well during the Flowback process.

Flowline: a segment of pipe transferring oil, gas, or condensate between a wellhead and processing equipment to the load point or point of delivery to a U.S. Department of Transportation Pipeline and Hazardous Materials Safety Administration or Colorado Public Utilities Commission regulated gathering line or a segment of pipe transferring produced water between a wellhead and the point of disposal, discharge, or loading. This definition of flowline does not include a gathering line or crude oil transfer line but does include on-location flowlines such as wellhead lines, production piping, peripheral piping, produced water flowlines and off-location flowlines as defined by the Colorado Energy and Carbon Management Commission, 2 C.C.R. 404-1, 100 Series Definitions and successor regulations.

Gathering line: a gathering pipeline or system as defined by the Colorado Public Utilities Commission in the Colorado Code of Regulations or a pipeline regulated by the U.S. Department of Transportation Pipeline and Hazardous Materials Safety Administration pursuant to 49 C.F.R. §§ 195.2 or 192.8 and successor regulations.

Groundwater: subsurface waters in a zone of saturation.

Historical or Cultural Resources has the same definition as found in Chapter 30 of the Berthoud Municipal Code.

Oil and gas location: a definable area where an Operator has disturbed or intends to disturb the land surface to locate an oil and gas facility.

Oil and gas facility: equipment, buildings, structures, or improvements associated with or required for the operation of oil and gas operations.

Oil and gas operations: exploration for oil and gas and the drilling of test bores; the siting, drilling, redrilling, deepening, completion, recompletion, reworking, fracturing, refracturing, temporary abandonment, shutting-in, or abandonment of a well; production operations related to any such well including the installation of pipelines; the generation, transportation, storage and treatment of oil and gas, and exploration and production wastes; any construction, site preparation, maintenance, repair, or reclamation activities associated with such operations; and any oil and gas facility, oil and gas well site or location, production site or other facility, site or location upon or within which any of the foregoing are conducted, operated, installed, constructed, generated, treated or located within Town limits.

Open Space has the same definition as found in Chapter 30 of the Berthoud Municipal Code.

Operator: Any individual, company, trust, foundation, or entity who exercises the right to control the conduct of oil and gas operations.

Park has the same definition as found in Chapter 30 of the Berthoud Municipal Code.

Permit: Town of Berthoud Oil and Gas Use by Special Review Permit issued pursuant to the provisions of this Section.

Pipeline: a flowline, crude oil transfer line, gathering line or any type of water or wastewater transfer line used for oil and gas operations.

Production or production phase means the operational phase of a well transporting hydrocarbons and other liquids or materials from the subsurface to the surface.

Root cause analysis means an analysis of the prime reasons, such as failures of management systems, faulty design, inadequate training, negligence, or improper changes, which led to an unsafe act or condition and resulted in an incident. If root causes were removed, the particular incident would not have occurred.

Plugging: oil and gas well plugging activities consistent with ECMC Rule 434 or any successor rules.

Reclamation: the process of returning or restoring the surface of disturbed land to its condition prior to the commencement of oil and gas operations.

Safety Data Sheets: documentation required by the United States Occupational Safety and Health Administration that includes information such as the properties of each chemical; the physical, health, and environmental health hazards; protective measures; and safety precautions for handling, storing, and transporting the chemical.

School: any operating Public School as defined in § 22-7-703(4), C.R.S., including any Charter School as defined in § 22-30.5-103(2), C.R.S., or § 22-30.5-502(6), C.R.S., or Private School as defined in § 22-30.5-103(6.5), C.R.S.

School facility: any discrete facility or area, whether indoor or outdoor, associated with a school, that students commonly use as part of their curriculum or extracurricular activities. A school facility is either adjacent to or owned by the school or school governing body, and the school or school governing body has the legal right to use the school facility at its discretion.

Seismic operation: all activities associated with acquisition of seismic data including but not limited to surveying, shothole drilling, recording, vibroseis, shothole plugging and reclamation.

Surface owner: any person owning all or part of the surface of land upon which oil and gas operations are conducted, as shown by the tax records of the county in which the tract of land is situated, or any person with such rights under a recorded contract to purchase.

Town: the Town of Berthoud, Colorado.

Town Administrator: the Town Administrator or designee of the Town of Berthoud, Colorado.

Venting: allowing natural gas to escape into the atmosphere but does not include:

a. The emission of gas from devices, such as pneumatic devices and pneumatic pumps, that are designed to emit as part of normal operations if such emissions are not prohibited by AQCC Regulation No. 7;

b. Unintentional leaks that are not the result of inadequate equipment design; and

c. Natural gas escaping from, or downstream of, a tank unless: (1) there is no separation occurring at equipment upstream of the tank; (2) the separation equipment is not sufficiently sized to capture the entrained gas; or (3) the natural gas is sent to the Tank during circumstances when the gas cannot be sent to the gathering line or the combustion equipment used to flare the gas is not operating.

Water source: water bodies that supply domestic, agricultural or municipal uses; water wells that are registered with Colorado Division of Water Resources, including household, domestic, livestock, irrigation, municipal/public and commercial wells, permitted or adjudicated springs, and monitoring wells other than monitoring wells that are drilled for the purpose of monitoring water quality changes that are not associated with oil and gas operations.

Well / Wellhead: an oil or gas well, a hole drilled for the purpose of producing oil or gas, a well into which fluids are injected, a stratigraphic well, a gas storage well, or a well used for the purpose of monitoring or observing a reservoir. Disposal wells are prohibited.

Wetlands has the same definition as found in Chapter 30 of the Berthoud Municipal Code.

Wildlife resources: fish, wildlife, and their aquatic and terrestrial habitats used for all life stages, including reproduction, rearing of young and foraging, and the migration corridors and seasonal ranges necessary to sustain robust wildlife populations.

30-15-103: Location restrictions for new facilities

A. Oil and gas operations will be located to avoid or sufficiently minimize and mitigate adverse impacts, including cumulative impacts, to surrounding land uses and to protect public health, safety, and welfare, the environment, and wildlife resources. The Town may deny a Use by Special Review permit if it determines the proposed location is not consistent with the protection of public health, safety, welfare, the environment, and wildlife resources as referenced in the Criteria for Approvalsection even if the Applicant meets other requirements as set forth in the Sections titled, New oil and gas operation

applications and Use by Special Review permit, Application Outcome and Development Standards, and Insurance and financial assurances

B. Oil and gas operations are allowed only in the following zoning districts as set forth in Chapter 30 of the Berthoud Municipal Code regarding Zoning *et al*.: Agricultural District (AG), Light Industrial (M1), and Industrial (M2).

C. Within zoning districts where oil and gas operations are allowed, oil and gas locations must be located 2,000 (two thousand) feet from the property line of a parcel containing any of the following uses: an existing or platted Dwelling Unit; a School, School Facility, or licensed Child Care Center; athletic fields, auditoriums, amphitheaters, hospitals, event centers, recreational facilities, nursing homes and life care institutions; parks, trails, and open spaces as defined in Chapter 30 of the Berthoud Municipal Code ; trails and trailheads open to the public; and workplaces located in the Agricultural, Light Industrial, and Industrial zoning districts.
    1. Owners of Dwelling Units and workplaces with property lines located less than 2,000 (two thousand) feet from a proposed oil and gas location may give written informed consent for oil and gas operations to occur no closer than 1,000 (one thousand) feet of the property line of the Dwelling Unit or workplace.

D. Within zoning districts where oil and gas operations are allowed, oil and gas locations must be located 2,000 (two thousand) feet from public water supply wells and the center line of water sources including wetlands, rivers, streams, and reservoirs. A new oil and gas location may be within 1,000 (one thousand) feet of a public water supply well and the center line of water sources upon a showing by the Applicant that such a location would pose no likelihood of contamination to the public water supply well or water source.

E. Within zoning districts where oil and gas operations are allowed, flowlines and crude oil transfer lines shall be sited to avoid areas containing existing or proposed residential, commercial, and industrial buildings; places of public assembly; water sources; and Town open space and parks.
    1. Flowlines and crude oil transfer lines shall be located a minimum of 150 (one hundred and fifty) feet from residential, commercial, and industrial buildings and the high-water mark of any water source. This distance shall be measured from the nearest edge of the flowline or crude oil transfer line.

F. Locating oil and gas facilities within a Federal Emergency Management Agency (FEMA) designated flood zone shall not be allowed.

G. For the purposes of this section, the setback measurement shall occur from the boundary of the oil and gas location.

30-15-104: Location restrictions for existing facilities

A. For permitted or existing oil and gas operations where all permitted wells have not entered completions, no new residential, commercial, or mixed-use building units shall be constructed within 2,000 (two thousand) feet of such oil and gas location.

B. No new residential, commercial, or mixed-use building units shall be allowed to be constructed within 2,000 (two thousand) feet of a permitted or existing oil and gas location for one year after the final well permitted for the location has been put into production.

C. For permitted oil and gas operations where all permitted wells have been in production for more than one year, or the permit has otherwise lapsed, been revoked, or forfeited, and is not subject to renewal or reissuance, no new residential, commercial, or mixed-use building units may be constructed within 500 (five hundred) feet of the oil and gas location.
    1. The setbacks in subsection (C) shall not apply to the following occurring prior to the effective date of this section:

a. Constructed residential units;
b. Platted residential lots;
c. Residential lots / units planned within a site development plan such as a Neighborhood Master Plan; or
d. Any development on or within land zoned a planned unit development (PUD) on the effective date of this section.

2. For oil and gas facilities that have been plugged, and locations that have been abandoned or reclaimed, no residential, commercial, or mixed-use building unit may be placed within 250 (two hundred and fifty) feet of the oil and gas facility.
3. The setback from any existing pipelines shall be a minimum of 150 (one hundred and fifty) feet from the edge of the pipeline easement closest to the flowline or gathering line. Pipelines removed prior to the construction of a residential, commercial, or mixed-use building unit as part of the oil and gas location's plugging, abandonment, and reclamation shall be excepted from this requirement.
4. For the purposes of this section, the setback measurement shall occur from the boundary of the oil and gas location.

30-15-105: New oil and gas operation applications and Use by Special Review permit

A. An Application for a Use by Special Review permit shall be submitted pursuant to the processes and requirements of, and subject to the criteria for approval, outlined in the Use by Special Review section of this Chapter. In addition to the standard application materials required for a Use by Special Review application, the additional materials and procedures outlined in this section are required to be submitted or followed for any application for a new oil and gas operation.

B. It shall be unlawful for any Operator to conduct oil and gas operations that has not been previously permitted under this Section unless a Use by Special Review permit has first been granted by the Town in accordance with the procedures defined in this Section.

C. **ECMC Oil and Gas Development Plan.** Applicant shall submit a copy of any and all materials submitted to the ECMC in support of its Oil and Gas Development Plan (OGDP), if the OGDP has been or was concurrently submitted to the ECMC at the time of the Applicant's application to the Town. ECMC OGDP materials shall be labeled distinctly and separately from those materials submitted pursuant to the Town's Use by Special Review Permit application.

D. The Applicant will follow the procedural steps for the Town's consideration of the application outlined in the Use by Special Review section of this Chapter. In addition to the procedural steps for the application outlined in Use by Special Review section of this Chapter, the Applicant shall request a pre-application meeting with the Town and conduct that meeting before submitting its application. The purpose of the pre-application meeting is for the Applicant to discuss how its application will meet the provisions of this Section and to assist the Town in comprehensive planning. Prior to the pre-application meeting, the Applicant shall submit to the Town a summary of its application, a map of the proposed oil and gas location and surrounding area, preferred transportation routes to and from the proposed oil and gas location, the surface owner's name, address, contact information, and date of the signed surface use agreement, if available.

E. The following reports and documentation shall accompany any application for a Use by Special Review Permit for a new Oil and Gas Operation. The reports and plans shall indicate how the Applicant / Operator plans to comply with the Town's regulations and protect health, safety, welfare, the environment, and wildlife resources. The reports will include measures outlined in the Town's regulations. An approved application may require additional industry recognized Best Management Practices, or compliance with state or federal rules, whichever is most protective of public health, safety, welfare, the environment and wildlife resources.

1. **Alternative Location Analysis**. Applicant shall submit with its application an analysis of no fewer than two (2) alternative locations from which relevant minerals can be accessed. The analysis shall include information related to the following:
    a. A single map listing the alternative sites and the preferred site;
    b. Zoning of the alternative sites and preferred site;
    c. The proposed area of mineral development;
    d. Natural and manmade features of each site;
    e. All proximate existing and permitted oil and gas operations within one mile (5,280 feet);
    f. Distance of the alternative sites and preferred site to the following within 1 mile (5,280 feet): residences, occupied buildings, parks, trails and open space areas; water bodies; irrigation infrastructure; flood overlay districts including floodways and floodplains; and roadways;
    g. Justification(s) for the preferred site; and
    h. Reason(s) why a site is not proposed as a viable alternative.

2. **Air Quality.** Operator shall comply with the Air Quality Protection Plan and Well Liquids Unloading Plan as outlined in this Section and all applicable state and federal laws. In addition:

a. A third-party consultant approved by the Town shall conduct baseline monitoring for thirty days at the Operator's cost. Baseline monitoring shall be conducted no closer than 500 feet of a proposed oil and gas facility at select location(s) up to a distance of 1 kilometer (3,280 feet) of the oil and gas operation as deemed appropriate by the Town. Baseline monitoring shall track levels and changes in monitored air pollutant concentrations during that time period.

b. Reduced Emission (Green) Completions, as defined in ECMC Rule 903.c.(1), or a successor rule, shall be used for all completions.

c. *Venting and flaring.* Venting and flaring shall be eliminated other than during emergencies, upset conditions, leak repair, or maintenance activities. Operator shall report all venting and flaring to the Town and the reason(s) for its necessity within 24 hours. To the extent used, all flares, thermal oxidizers, or combustion devices shall be designed and operated as follows:

i. Any flaring or combustion shall utilize a flare that has a manufacturer specification of 98% destruction removal efficiency or better;

ii. The flare and/or combustor shall be designed and operated in a manner that will ensure no visible emissions during normal operation. Visible emissions means observations of smoke for any period or periods of duration greater than or equal to one minute in any fifteen-minute period during normal operation, pursuant to EPA Method 22. Visible emissions do not include radiant energy or water vapor;

iii. The flare and or combustor shall be operated with a flame present at all times when emissions are vented to it;

iv. All combustion devices shall be equipped with an operating auto-igniter;

v. If using a pilot flame ignition system, the presence of a pilot flame shall be monitored using a thermocouple or other equivalent device to detect the presence of a flame. A pilot flame shall be maintained in the flare's pilot light burner at all times when emissions are routed to the flare. A surveillance

system shall be in place to monitor the pilot flame and shall activate a visible and audible alarm in the case that the pilot goes out;

vi. If using an electric arc ignition system, the arcing of the electric arc ignition system shall pulse continually and a device shall be installed and used to continuously monitor the electric arc ignition system; and

vii. Any flare, auto ignition system, recorder, vapor recovery device or other equipment used to meet the hydrocarbon destruction or control efficiency requirement shall be installed, calibrated, operated, and maintained in accordance with the manufacturer's recommendations, instructions, and operating manuals.

d. *Electrification.* All facilities shall be equipped with electric-powered engines for motors, compressors, drilling and production equipment, and pumping systems during pre-production and production activities unless no adequate electricity source is available during the necessary operation periods, or confirmation from the electrical utility cannot be obtained by the application hearing. Natural gas-powered drill rigs shall be used if an adequate electricity source cannot be secured for electric-powered drilling equipment.

e. *Air Quality Action Advisory Days*. Facilities may be subject to timing restrictions to reduce emissions on Air Quality Action Advisory Days as designated by the CDPHE in the Denver Metro / North Front Range Ozone Non-Attainment Area. Operators shall include provisions in Air Quality Plans to avoid operations during Air Quality Action Advisory Days, or, if technically infeasible or will create a safety concern, incorporate the following measures to minimize pollution on those days:

i. Minimizing vehicle traffic and engine idling;

ii. Reducing truck and worker traffic;

iii. Delaying vehicle refueling;

iv. Suspending or delaying use of fossil fuel powered equipment, if any is used on the oil and gas location;

v. Postponing construction and maintenance activities unless repairing identified leaks or releases;

vi. Postponing well maintenance and liquid unloading that would result in emission releases to the atmosphere; and

vii. Postponing or reducing operations with high potential to emit Volatile Organic Compounds (VOCs) and/or Oxides of Nitrogen (NOx).

f. *Air Quality Protection Plan.* An Air Quality Protection Plan shall be submitted with all applications to demonstrate how the development and operation of the facility will avoid, or minimize and mitigate adverse impacts to air quality if those adverse effects cannot be avoided, and will demonstrate compliance with and implementation of standards this section. Unless more protective measures are required by the EPA and/or CDPHE, the Air Quality Protection Plan shall include, but not necessarily be limited to, the following:

i. A section on air quality monitoring that describes how the Operator will conduct baseline monitoring prior to construction of the facility and continuous monitoring during all phases of the operation.

A. The Plan shall describe how the Operator will conduct continuous monitoring and collect periodic canister samples (or equivalent

method capable of collecting samples that can be speciated for individual air pollutants) during the drilling, completion, and production phases of development.

B. In the event a sample is triggered that is sent to the lab for speciation, the Plan shall describe the Town and CDPHE notification processes. Depending on the circumstances, expedited lab analyses may be required by the Town at the expense of the operator.

C. The Plan shall include provisions for continuous monitoring of the location with the ability to notify the operator of increases in air contaminant concentrations. The Plan shall include monitoring for all potential emissions, including but not necessarily limited to Volatile Organic Compounds (VOCs), Hazardous Air Pollutants (HAPs), Benzene, Toluene, Ethylbenzene, and Xylene (BTEX), Hydrogen Sulfide, Oxides of Nitrogen (NOx), Particulate Matter (PM), Fine Particulate Matter (PM 2.5), Carbon Monoxide (CO) and methane (CH_4), carbon dioxide (CO_2).

D. The Plan shall include provisions for continuous emissions monitoring at frequencies of no less than once per hour during drilling and completion activities. Each monitor shall include a sampling device to automatically collect a sample that can be speciated for individual air pollutants when the continuous emissions monitor reaches a threshold concentration level defined by the third-party consultant or in response to a request by the Town. Meteorological monitoring is also required during the time period that air quality monitoring is conducted. Continuous monitoring of production operations will continue until three years have passed from the date the last well at the location goes into production, unless the Town Administrator directs otherwise in response to the detection of repeated emissions at threshold concentrations or repeated odor violations.

E. The Plan shall meet the minimum requirements of AQCC Regulation 7, part B, section VI.C., and any successor sections, and receive approval from the Air Pollution Control Division (APCD) prior to beginning air quality monitoring at the permitted site of the location. When submitting the air quality monitoring plan to APCD, the Operator shall submit at least 90 days in advance of the pre-drilling monitoring to account for the Town's 30-days of pre-drilling air quality monitoring requirement.

F. In addition to all federal and state laws, rules and regulations, applications for new oil and gas operations shall demonstrate how exploration, construction, and standard operations of the facilities will comply with the rules and regulations of the AQCC. Information to be provided shall include all appropriate applications of notifications and permits for sources of emissions.

G. The Plan must evaluate the cumulative impacts to existing air quality including ambient air quality standards for ground-level ozone, meeting oil and gas sector greenhouse gas reduction targets, and the cumulative impacts of all approved and existing oil and gas operations and any other significant emissions sources within the Town.

H. The following Best Management Practices shall be required and included in the Plan unless a more protective system exists and is required by the EPA and/or the AQCC:

I. Emission controls of 98% or better for glycol dehydrators;

II. Pressure-suitable separator and vapor recovery units;

III. Reduction or elimination of emissions from flowline maintenance activities such as pigging, including routing emissions to a vapor collection system, with at least 98% control of emissions from pigging operations.

I. The Town retains the discretion to require more protective Best Management Practices as a condition of the Town's Development Agreement if technologically feasible.

ii. A section describing the Applicant's proposed use of tanks during all phases of its operations and its planned practices to avoid, minimize, or mitigate emissions from those tanks. Operator shall conduct tankless operations unless technically infeasible and shall not store produced water or hydrocarbon liquids in tanks on-site unless for well unloading or maintenance activities.

g. *Well Liquids Unloading Plan.* The Applicant shall submit a plan for well liquids unloading, if applicable. The Plan shall include Best Management Practices, including artificial lift, automated plunger lifts and at least 98% emission reductions when utilizing combustion to control venting shall be employed unless technically infeasible. The Plan shall also include a provision to avoid well liquids unloading during CDPHE ozone alert days unless required for safety reasons.

3. Chemical and Hazardous Materials Use, Disclosure, and Handling.

a. Applicant shall submit a Chemical and Hazardous Materials Plan to demonstrate how the Applicant will comply with reporting and handling requirements outlined in this section and applicable state and federal laws. The plan shall disclose all the hazardous and non-hazardous materials and chemicals that will be used on the site of the proposed facility, including chemicals to be used in fracking fluid, and how of the chemicals used on the facility will be handled to prevent spills.

b. Operator shall disclose its expected use of all chemicals during all phases of the oil and gas operation.

c. The Town may limit or prohibit toxic chemicals in hydraulic fracturing fluids. To prevent harm to human health and prevent odors, Operators shall be prohibited from using any toxic chemical additives in hydraulic fracturing fluids including but not limited to, the following:

i. All chemicals listed in ECMC Table 437-1 or any successor regulation;

ii. Polysorbate 80; and

iii. Perfluoroalkyl and polyfluoroalkyl substances or "PFAS chemicals," defined as a class of fluorinated organic chemicals containing at least one fully fluorinated carbon atom.

d. Drilling and completion chemicals shall be removed from the site within sixty (60) days of the drilling completion.

4. Emergency Response. Applicant shall submit and comply with an Emergency Response Plan. In its preparation of the Emergency Response Plan, the Applicant shall engage with emergency responders whose jurisdiction includes the Town and prepare a plan that includes, but not necessarily be limited to documentation of the communications and coordination with the Town and plans for the evacuation of buildings and any person within a 1 kilometer (3,280 feet) radius from the oil and gas operation. The Emergency Response Plan must detail all criteria for persons to be notified in the event of an emergency and training and necessary equipment for first responders. The Emergency Response Plan shall also include:

a. The names, addresses and phone numbers, including 24-hour numbers for at least two persons responsible for field operations, at least one of which can be on the site of any emergency within 15 minutes, as well as the contact information for any subcontractor of the Applicant engaged for well-control emergencies, which shall be updated with the Town if the names of responsible personnel change;

b. A process by which the Operator will notify neighboring residents and businesses within 1 kilometer (3,280 feet) to inform them about the on-site operations and emergencies and to provide sufficient contact information for surrounding neighbors to communicate with the Applicant;

c. An emergency evacuation plan for the oil and gas facility and a plan to evacuate any person up to 1 kilometer (3,280 feet) of the oil and gas location;

d. Emergency shutdown protocols and procedures to promptly notify the Town Administrator of any shutdowns that would have an impact to any area beyond the confines of the oil and gas location;

e. A process by which the Applicant will notify the Town Administrator and the Berthoud Fire Protection District as soon as practicable but no later than 24 hours after the incident;

f. Detailed information addressing each category of emergency that has a reasonable potential to occur at the operation and to be severe enough to present an immediate danger to public health, safety or welfare, including but not necessarily limited to: explosions; fires; gas; oil or water pipeline leaks or ruptures; well integrity issues, hydrogen sulfide or other toxic gas emissions; hazardous material vehicle accidents or spills; vandalism, and natural disasters. Examples of the most likely and worst-case scenarios should be provided, including information on the potential response scenarios;

g. A provision that any spill outside of the containment area that has the potential to leave the facility or to threaten waters of the state, or as required by the Town-approved plan, shall be reported to the local dispatch and the ECMC Director in accordance with ECMC regulations;

h. Detailed information identifying emergency access, transportation routes to and from oil and gas locations for emergency response, and health care facilities anticipated to be used if necessary;

i. A project-specific plan for any project that involves drilling or penetrating through known zones of hydrogen sulfide gas;

j. A provision obligating the Operator to reimburse the appropriate agencies for their expenses incurred in connection to any emergency response in connection to an oil and gas operation;

k. A statement and detailed information indicating that the Operator has adequate personnel, supplies, and training to implement the plan immediately at all times during construction and operations;

l. A process by which the community can submit concerns and complaints and be assured of timely responses;

m. Details regarding coordination methods and training between the Applicant and the first responders within or outside of the Town; and

n. Provisions for cooperation with first-responder agencies in training, drills, exercises, and development of after-action reports.

o. *Emergency Response Updates*. Applicant shall include provisions in its Emergency Response Plan for periodic review and updates. The provisions shall include, at a minimum:

i. An annual review of the plan and filing of any updates with the Town Administrator and the applicable fire district. If no updates to the plan are made then the Operator shall provide notice of "No Change" in the filing required under this subsection;
ii. Within 60 days of the start of production, Operator will provide an as-built facilities map in a format suitable for input into the Town's GIS system depicting the locations and type of above and below ground facilities, including sizes and depths below grade of all oil and gas flow lines and associated equipment, isolation valves, surface operations and their functions. The information concerning flowlines and isolation valves shall be marked and treated as confidential and shall only be disclosed in the event of an emergency or to emergency responders or for the training of emergency responders; and
iii. The Operator shall have current Safety Data Sheets (SDS) for all chemicals used or stored on an oil and gas location. The SDS sheets shall be provided immediately upon request to Town officials, a public safety officer, or a health professional as required by ECMC Rules.

5. Flood Mitigation. The site shall remain in compliance with the approved permit for disturbance in the flood hazard overlay zone in conformance with the Flood Damage Prevention section found in Chapter 30 of the Berthoud Municipal Code.

6. Pipelines. Operator must comply with the Pipeline Plan as outlined in this section and all applicable state and federal laws. All flowlines and crude oil transfer lines shall be sited to avoid areas containing existing or proposed residential, commercial, and industrial buildings; places of public assembly; water sources; and designated open spaces. All pipelines shall require crossing agreements, as needed. All pipelines shall be documented with the Use by Special Review Permit application. Any newly constructed or substantially modified flowlines or crude oil transfer lines shall meet the following requirements:

a. The use of pipelines to transport liquid production wastes and product is required unless technically infeasible;

b. All flowlines and crude oil transfer lines transporting process materials, production wastes, product, and any other items used or generated by an oil and gas facility shall be located to avoid existing or proposed residential, commercial, and industrial buildings, places of assembly, water source and designated open spaces. Buried flowlines and crude oil transfer lines shall be a minimum of four (4)-feet deep and shall be of detectable material which could include the addition of tracer wire to ensure detection during buried utility locating;

c. All flowlines and crude oil transfer lines shall be sited at a minimum of 150 (one hundred fifty) feet away from residential and other occupied buildings, as well as the highwater mark of any water source. This distance shall be measured from the nearest edge of the line. Increased flowline and crude oil transfer line setbacks may be required by the Town on a case-by-case basis taking into account the size, pressure, and type of line being proposed;

d. Flowlines and crude oil transfer lines shall be aligned with established roads to minimize surface impacts and reduce habitat fragmentation and disturbance unless technically infeasible;

e. Operators shall share existing pipeline rights-of-way and consolidate new corridors for pipeline rights-of-way to minimize surface impacts unless technically infeasible;

f. Operators shall use boring technology when crossing streams, rivers, irrigation ditches or wetlands with a pipeline to minimize negative impacts to the channel, bank, and riparian areas, except that open cuts may be used across irrigation ditches if the affected ditch company approves the technique;

g. As-built reporting, including the location (with GPS coordinates), materials and operating pressures of all pipelines and depicting the locations of other subsurface features or improvements crossed by such lines shall be provided to the Town in a format suitable to the Town and subject to the Town's public safety disclosure guidelines; and

h. Temporary water lines, or other means rather than truck, will be used to transport water to the site for hydraulic fracturing and other purposes unless technically infeasible. Temporary water lines shall be buried at all existing driveway and road crossings, or utilize existing culverts, if available.

j. *Pipeline plan.* Applicant shall submit a Pipeline Plan with its application detailing how it will comply with the pipeline safety provisions in this section. The Pipeline Plan must include:

i. A map that shows the location and route of each pipeline necessary for the oil and gas operations, through the lifetime of the oil and gas operations, and their approximate distances from: existing or proposed residential, commercial, or industrial buildings; places of public assembly; water sources; geologic hazards, agricultural lands; trails and open space; and public or private roads;

ii. A general description of the size of the pipelines and the materials the pipelines will carry;

iii. Whether pipelines will be co-located with proposed or existing lines;

iv. Identification of all pipeline segments that will be constructed by boring and the location of the boring operation;

v. Description of how the Applicant intends to adhere to the integrity management procedures for flowlines and crude oil transfer lines listed in ECMC Rule 1104.c-f, or any successor rules;

vi. A copy of the leak protection and monitoring plan for flowlines and crude oil transfer lines required by ECMC Rule 1104.g, or any successor rules; and

vii. Description of the measures planned to minimize land disturbance and impacts to vegetation.

7. Fugitive Dust. The Operator must comply with its Fugitive Dust Control Plan as outlined in this section and all applicable state and federal laws. All fugitive dust shall be contained to the

maximum extent practicable and Operators must prevent dust from leaving their property. In addition:

a. No produced water or other process fluids shall be used for dust suppression. Safety Data Sheets (SDS) for any chemical-based dust suppressant shall be submitted to the Town prior to use.

b. The Operator will avoid creating dust or dust suppression activities within 300 feet of the ordinary high-water mark of any water body, unless the dust suppressant is water.

c. Sand, silica and similar materials must be properly stored to prevent fugitive particulates. Measures shall be used to control particulates, including proof of compliance with State-required dust control measures and imposition of an opacity requirement as tested using EPA Method 9.

d. Operations shall be conducted in such a manner that dust does not constitute a nuisance pursuant to Chapter 17 of the Berthoud Municipal Code or hazard to public health, safety, welfare the environment, or wildlife resources.

i. If there is a complaint of dust by a nearby resident, business, or agricultural operation that is made directly to the Operator, to the ECMC, or the Town, the Operator shall determine whether the dust was caused by Operator's operations. Operator will provide a complete description to the Town of all activities occurring at the oil and location at the time of the complaint. Operator shall report its conclusions, including the factual basis for the conclusions, to the Town and the complainant within 48 hours of the complaint. If the Operator or Town determines that the dust is caused by the Operator's actions, Operator shall resolve the dust concern to the maximum extent practicable within 24 hours.

e. *Fugitive Dust Control Plan*. A Fugitive Dust Control Plan submitted with the application shall disclose techniques and methods to be utilized at the proposed location to prevent or mitigate fugitive dust generated by the construction and operations of the proposed facility and the traffic associated therewith. The plan shall demonstrate compliance with and implementation of standards in this section.

8. Historical and Cultural Resources. Operator shall assess historical and cultural resources in and around the proposed oil and gas location and share such information and proposed mitigation measures with the Town for advance approval prior to start of site construction. If a significant surface or sub-surface archeological site is discovered during construction, the operator shall be responsible for immediately contacting the Town to report the discovery. If any disturbance of a site deemed by the State Historic Preservation Office to be a historical or cultural resource occurs, the operator shall be responsible for mitigating the disturbance to the cultural or historical property through a data recovery plan in consultation with the Town's Historic Preservation Commission and the State Historic Preservation Office.

9. Incident and Accident Reporting. In addition to following the emergency response provisions outlined in the section of this Code regarding New oil and gas operation applications and use by Special Review permits, the Operator shall take all reasonable and necessary steps to avoid adverse incidents or accidents. In addition:

a. *Emergency reporting*. If public health, safety, welfare, the environment, or wildlife resources are threatened, the Operator responsible for the operation causing such threat will immediately notify the appropriate emergency responders, the Town, the ECMC, and the surface owner orally.

b. *Safety Event reporting*. Within 24 hours of the cessation of any reportable safety event, as defined by the ECMC in Rule 602(g), or any successor rules, or any accident or natural event involving a fire, explosion or detonation requiring emergency services or completion of a ECMC Form 22, Operator shall submit a report to the Town Administrator that includes at least the following information, to the extent available: fuel source, location, proximity to residences and other occupied buildings, cause, duration, intensity, volume, specifics and degree of damage to properties, if any beyond the oil and gas location, injuries to persons, emergency response, and remedial and preventative measures to be taken within a specified amount of time.

c. The Town may require the Operator to conduct a root cause analysis of any reportable safety events or Grade 1 gas leaks, each as defined by the ECMC. The root cause analysis shall be prepared and submitted to the Town no later than 30 days of the request.

d. Any spill or release of unrefined and refined petroleum products, hazardous substances, fracking fluids, E&P waste, or produced fluids of greater than 25 gallons outside of secondary containment areas on a facility, including those thresholds reportable to the ECMC and CDPHE, shall upon discovery, be immediately reported to the National Response Center, ECMC, CDPHE, the Larimer County Sheriff, Larimer County Department of Health and Environment, and the Berthoud Fire Protection District.

10. Leak Detection and Repair. Operator shall conduct leak detection and repair inspections at every facility monthly or at greater frequencies if required by the APCD for any emission source using best available leak detection technologies and equipment, such as infrared cameras and hydrocarbon analyzers.

a. If an infrared camera is used, Operator shall retain an infrared image or video of all leaking components before and after repair. Records and results of those inspections, including all corrective actions taken, shall be maintained for three years and shall be made available to the Town upon request. Operator shall also retain a copy of all reports submitted to the APCD, including monthly downtime reports and semi-annual control equipment status reports for production facilities, and make those reports available to the Town upon request.

b. Operator shall report to the Town Administrator any leaks discovered by the Operator, including any leaks that are reported to the Operator by a member of the public, within 12 (twelve) hours of the discovery and / or report.

c. Repair of leaks shall occur within 48 hours of detection if feasible. If it is anticipated that a repair will take longer than 48 hours, the Operator shall provide a written explanation to the Town as to why more time is required and how the leak will be contained.

d. If the Town determines that the leak presents an imminent threat to public health, safety, welfare, the environment or wildlife resources, the Operator shall notify residents within 1 kilometer (3,280 feet) of the leak and may not operate the affected facility, component, equipment or flowline segment until the Operator has corrected the problem and the Town agrees that the affected component, equipment or flowline segment no longer poses a hazard to public health, safety, welfare, the environment or wildlife resources.

e. *Leak Detection and Repair Plan.* A Leak Detection and Repair Plan shall disclose techniques, methods and protocols that will be utilized at the proposed oil and gas facility to identify, prevent, contain, document, repair, and report leaks, and shall demonstrate how it will comply with and implement the standards in this section.

11. Lighting and Visual Impacts. The Operator's lighting and visual impacts mitigation measures must comply with the Town's Outdoor Lighting and Dark Sky Standards found in Chapter 30 of the Berthoud Municipal Code, the Visual Impacts Plan as outlined in this section, and all applicable state and federal laws. In addition:

a. Oil and gas operations will avoid or sufficiently minimize and mitigate adverse impacts associated with lighting on public health, safety, and welfare, the environment and wildlife resources. Lighting associated with oil and gas operations will be designed to protect surrounding properties, roadways, livestock, and wildlife resources from light pollution and glare. All permanent lighting or lighting higher than a perimeter wall must be downward facing.

b. Lighting at a facility must include:

i. the use of timers or motion sensing lighting;

ii. the use of full cut-off lighting; and

iii. the use of reduced light intensity colors and low-glare or no-glare lighting.

c. The location of all outdoor lighting shall be designed to minimize off-site light spillage and glare using best practices recognized by the International Dark-Sky Association.

d. For all phases of the development of the site, the application shall demonstrate compliance with the visual and aesthetic rules of ECMC and the Berthoud Municipal Code for landscaping, fencing, and lighting.

e. All facilities shall be painted with colors that are matched to or slightly darker than the surrounding landscape, and shall utilize paint with uniform, non-contrasting, nonreflective color tones based upon the Munsell Soil Color Coding System.

f. For all phases of site development, fencing shall be installed for security and visual aesthetics of the use.

g. Oil and gas operations shall minimize removal of trees and vegetation on the site.

h. Landscaping and/or fencing for screening and visual quality as viewed from public rights-of-way and neighboring residential areas shall be required within 6 months from the time of well completion and in accordance with requirements for the zoning district.

i. Facility applications shall demonstrate compliance with weed control requirements of Chapter 16 of the Berthoud Municipal Code and Forestry Department, including for access roads serving the facility.

j. *Lighting and Visual Impacts Plan.* The Applicant shall complete a plan in its application that includes the location of all outdoor lighting on the site and structures, including cut sheets (manufacturer's specifications with picture or diagram) of all proposed fixtures. The plan should also include the location and type of any emergency lighting and description of situations in which it will be used. A photometric study conducted by an independent consultant approved by the Town to measure the lumens emitted by the oil and gas facilities or operations and evaluate lighting impact on surrounding properties must also be included as part of the plan.

12. Noise and Vibrations.

a. Operator shall comply with the Noise and Vibration Mitigation Plan as outlined in this section and all applicable state and federal laws. Noise and vibration mitigation measures shall include the following:

i. Oil and gas operations may not exceed the ambient noise level by more than five decibels during daytime hours (7:00 a.m. through 7:00 p.m.) and more than three decibels during nighttime hours (7:00 p.m. through 7:00 a.m.);

ii. Oil and gas operations may not exceed the ambient noise level by more than ten decibels over the daytime average ambient noise level during fracturing operations during daytime hours. No fracturing shall be allowed during nighttime hours except for flowback operations related to fracturing as provided in subsection (iii).

iii. Oil and gas operations may not exceed the ambient noise level by more than three decibels during flowback operations during nighttime hours;

iv. Adjustments to the noise standards as set forth above in subsections (1), (2), and (3) of this section may be permitted intermittently in accordance with the following:

Table 1

Permitted Increase (dBA)	**Duration of Increase (minutes)***
10	5
15	1
20	Less than 1
* Cumulative minutes during any one hour	

v. The point of compliance for noise shall be the property line of the protected use or no less than 25 feet from the exterior wall of any protected use structure closest to the oil and gas facility.

vi. In no instance may an oil and gas operation produce dBA or dBC noise exceeding limits set by the ECMC Rule 423 or any successor rule.

vii. During construction, drilling, and completion activities, the Operator must conduct continuous noise monitoring by a third-party consultant approved by the Town for all oil and gas facilities located with 1 kilometer (3,280 feet) of any residential or occupied building.

viii. To reasonably ensure the Operator controls noise to the allowable levels set forth above, one or more of the following may be required by the Town based on the location, nature, and size of the facility and technical feasibility:

A. Quiet design mufflers (i.e., hospital grade or dual dissipative) or equal to or better than noise mitigation technologies shall be utilized for non-electrically operated equipment;

B. Motors, generators, and engines shall be enclosed in acoustically insulated housings or covers;

C. Obtain all power from utility line power or renewable sources;

D. Utilize best management practices to minimize noise impact during drilling, completions, and all phases of operation including the use of "quiet fleet" noise mitigation measures for completions;

E. Acoustical blankets, sound walls, mufflers, or other alternative methods around well drilling and completion activities to mitigate noise impact;

F. Restrictions on workover operations and/or the unloading of pipe or other tubular goods between 7:00 p.m. and 7:00 a.m.;

G. The use of electric drill rigs; and

H. The use of Tier 4 or better diesel engines, diesel and natural gas co-fired Tier 2 or Tier 3 engines, natural gas fired spark ignition engines, or electric line power for hydraulic fracturing pumps.

ix. If the Operator is in compliance with the approved noise mitigation and monitoring plan and a violation still occurs, the operator shall be notified of noncompliance and given 24 hours to correct the violation. Additional extensions of the 24-hour period may be granted in the event that the source of the violation cannot be identified after reasonable diligence by the Operator.

x. In response to a noise complaint, the Town may at any time require additional continuous noise monitoring, conducted by an approved third-party consultant, until noise concerns are abated.

xi. *Vibrations.*

A. No vibration shall be transmitted through the ground that is discernible without the aid of instruments measured at 500 feet from the abutting residential or commercial development.

B. No vibration shall exceed 0.002g peak at up to 50 cps frequency measured at 500 feet from the abutting residential or commercial development. Vibrations recurring at higher than 50 cps frequency or a periodic vibrator shall not induce accelerations exceeding 0.001g.

C. Single impulse period vibrations occurring at an average interval greater than five minutes shall not induce accelerations exceeding .01g.

D. Operator shall conduct continuous seismic monitoring during fracking operations.

E. Seismic events greater than 2.0 on Richter scale shall be reported to the Town Administrator and to ECMC.

F. If a seismic event occurs, the Town may order the cessation of operations immediately and operator can only resume work once the town is satisfied with the actions taken to reduce the likelihood of further seismicity.

G. Operations shall be immediately suspended for any seismic event measuring 4.0 or above on the Richter scale. Operator may only resume work once the town is satisfied with the actions taken to reduce the likelihood of further seismicity.

b. *Noise and Vibration Mitigation Plan.* A Noise and Vibration Mitigation Plan shall be submitted with the application to demonstrate how the facility will mitigate noise and vibration impacts to comply with the noise standards contained in this section. The plan shall include the following:

i. A minimum one-week (168 consecutive hours) baseline ambient noise analysis. The baseline analysis must include wind speed, direction, rainfall data, season conducted, and any other relevant conditions;

ii. *Noise Modeling*. Using industry-recognized noise modeling software, modeling of expected dBA and dBC noise levels from the proposed oil and gas facilities and oil and gas operations during all phases of development and operation, assuming use of and identifying all noise-mitigating equipment and measures intended for use at the proposed oil and gas facilities or oil and gas operations. All noise modeling must include a list of all noise sources, reference noise data used in the model for each source, noise attenuation specifications for any proposed noise walls, and a scaled map showing predicted noise levels;

iii. Modeled maximum A- and C-weighted decibel levels for all phases of development shall be presented using contour maps from the facility (combining noise sources) at 350 feet, 500 feet, 1,000 feet, 2,000 feet, and to the property line of the adjacent properties. Contour maps shall be provided that demonstrate both unmitigated and mitigated decibel levels; and

iv. A plan of proposed mitigation measures to be implemented by the facility during each phase of development shall be provided to ensure compliance with the maximum permissible noise levels as listed in this section.

13. Odor. The Operator's odor mitigation measures must comply with the Odor Mitigation Plan as outlined in this section and all applicable state and federal laws. In addition, the Operator shall implement the following measures:

a. Oil and gas facilities must not emit odor detectable after dilution with one or more volumes of odor free air to four volumes of clean air at any dwelling unit;

b. If a resident within 1 kilometer (3,280 feet) of a facility complains of odor (either directly to the Operator, to the ECMC, or to the Town) the Operator shall determine whether the odor is caused by Operator's actions, by, at a minimum, conducting two odor measurements within a period of one hour – these measurements being separated by at least fifteen (15) minutes and taken 25 feet from the exterior wall of the residence. Operator will also provide a complete description of all activities occurring at the oil and gas location at the time of the complaint to the Town. Operator shall report its conclusions, including the factual basis for the conclusions, to the Town and the complainant within 48 hours of the complaint. If the Operator or Town determines that the odor is caused by Operator's operations, the Operator shall resolve the odor concern within 24 hours of receiving the complaint;

c. If it is determined that the operator caused odors in violation of the odor requirements outlined in this Code, the operator may be required to cease or change operations, notify affected residents, and/or temporarily relocate residents until the facility is no longer causing a violation;

d. If odor persists after an Operator complies with this Code, and there are reasonable grounds to believe the location continues to cause the odor, the Town may require the Operator to conduct additional investigation, which may include audio, visual, and olfactory inspections or instrument-based leak inspections, and take appropriate corrective action based on the results of investigation and the severity of the odor; and

e. In response to odor complaints the Town may require an Operator to collect and analyze a speciated air sample to measure for volatile organic compounds or hazardous air pollutants known to cause potential health risks and have acute health guideline values identified by the Agency for Toxic Substances and Disease Registry and/or CDPHE to further evaluate the risk of the odor. Speciated air sample collection shall be done utilizing a third-party vendor approved by the Town;

f. *Odor Mitigation Plan.* The Applicant shall submit an Odor Mitigation Plan with its application indicating how its operations will prevent odors from adversely impacting the public and wildlife resources and further demonstrating compliance with the standards in this section. The Odor Mitigation Plan shall include investigation and control strategies which shall be implemented upon receipt of odor complaint(s), the determination that the facility is causing the odor, or as required by the Town. These odor control strategies shall include at least the following:

i. Odorants, that are not a masking agent, shall be added to chillers and/or mud systems;

ii. Additives to minimize odors from drilling and fracturing fluids except that Operators shall not mask odors by using masking fragrances;

iii. The utilization of filtration systems and/or additives to minimize, not mask, odors from drilling and fracturing fluids in the drilling and flowback processes;

iv. Increasing additive concentration during peak hours provided additive does not create a separate odor. Additives must be used per the manufacturer's recommended level;

v. The utilization of enclosed shale shakers to contain fumes from exposed mud where safe and feasible;

vi. Drilling activities shall utilize minimum low odor Category IV or better drilling fluid or non-diesel-based drilling muds that do not contain benzene, toluene, ethylbenzene, or xylene (BTEX). Operator will employ the use of drilling fluid with low to negligible aromatic content during drilling operations after surface casing is set;

vii. Removing drilling mud from drill pipe each time it is removed from the well and wiping down drill pipes as they exit the well bore each time;

viii. Drill cuttings shall be covered to prevent odor while being transported by truck; and

ix. A prohibition of the use of D-822 drilling mud unless its use is required by ECMC.

14. Reclamation. Reclamation of the oil and gas operation must comply with the Reclamation Plans as outlined in this section and all applicable state and federal laws.

a. *Interim Reclamation*. In addition to following the ECMC rules related to interim reclamation, the Operator shall comply with the following provisions:

i. There shall be no permanent storage of equipment (i.e., vehicles, trailers, commercial products, chemicals, drums, totes, containers, materials, and all

supplies not necessary for uses on an oil and gas location) on the site of an oil and gas location.

i. When not in use, or if no longer needed for on-site operations, all equipment not being used on the site shall be removed from the site within thirty (30) days of completion of the work, weather conditions permitting.

b. *Final Reclamation*. In addition to following the ECMC rules related to final reclamation, the Operator shall:

i. Give notice to the Town Administrator of the commencement and completion of final reclamation activity;

ii. Provide coordinates for the location of the decommissioned well(s), and any associated pipelines in a format suitable for input into the Town's GIS system; and

iii. Permanently mark the plugged and abandoned well with a brass plaque set in concrete similar to a permanent bench-mark to monument its existence and location. Such plaque shall contain all information required on a dry hole marker by the ECMC. The exact location will be recorded with the Larimer County clerk and recorder.

c. Plugging and Abandonment notice is required to ensure adequate public notice and traffic management, and review of final reclamation plans. At least 72 hours prior to commencing plugging and abandonment operations, Operator will provide to the Town:

i. A timeline for work to be accomplished;

ii. Notice that has been submitted to the surface owner and all residents within 1 kilometer (3,280 feet);

iii. The Form 4 Sundry Notice supplied to the ECMC to notify state of the plugging and abandonment; and

iv. A Final Reclamation Plan in accordance this section and approved by the surface owner.

d. *Reclamation Plans.* The Applicant shall submit an Interim Reclamation Plan and a Final Reclamation Plan with its application. Both plans shall outline how the Applicant will comply with Berthoud Municipal Code and ECMC rules related to site reclamation.

i. The Interim Reclamation Plan shall also, at a minimum, include:

A. A site plan that defines the "working pad surface" limited to those areas necessary for production;

B. A written description of existing vegetation in the area; and

C. A plan for revegetation and any landscaping outside of working pad surface, or for reclaiming to the final land use as designated by the surface owner, and how it will be watered and maintained.

ii. The Final Reclamation Plan shall also, at a minimum, include:

A. A timeline for the removal of all equipment from the location; and

B. A detailed demonstration of how the Operator will restore the site surface area to the condition it was prior to the oil and gas operation.

15. Spill Prevention, Containment, and Reporting. The Operator must comply with the provisions in its Spill Prevention and Containment Plan as outlined in this section and all applicable state and federal laws. In addition:

a. Unloading areas shall be designed to contain potential spills or direct spills into other secondary containment areas;

b. Containment systems constructed of steel rimmed berms, or similar impervious surfaces that are equal to or better, shall be used for all secondary containment areas. Berms or other secondary containment devices around crude oil, condensate, and produced water storage tanks enclosing an area sufficient to contain and provide secondary containment for 150% of the largest single tank. Berms or other secondary containment devices shall be sufficiently impervious to contain any spilled or released material. Inspection of all berms and containment devices shall occur at regular intervals, but not less than monthly. Maintenance of all berms and containment devices must remain in good condition;

c. All spills or releases, whether reportable or not, shall be cleaned up immediately and to the satisfaction of the local emergency response authorities, in accordance with the Operator's Spill Prevention and Containment Plan. Any leak, release, or spill will be cleaned up according to applicable Town, county, state and federal laws. Operators will notify the Town immediately upon completion of clean-up activities.

d. A root cause analysis of any spill, leak, or release of any substance other than fresh water that resulted in serious bodily injury or fatality, serious environmental harm, was a Grade 1 gas leak as defined by the ECMC, or is otherwise requested by the Town must be submitted to the Town within 30 days of the leak, spill, or release.

e. *Spill Prevention and Containment Plan.* The Applicant shall submit a Spill Prevention and Containment Plan with all facility applications. The plan shall outline techniques, methods, and protocols to be utilized at the proposed facility to prevent, contain, clean up, document, and report any spills or releases, and shall demonstrate compliance with and implementation of the standards in this section.

16. Transportation Impacts. The Applicant will be required to enter into a long-term road maintenance and improvements agreement, and a Development Agreement with the Town. These Agreements shall be presented with the Use by Special Review application at the public hearing. Additionally, Operator shall adhere to the provisions in the Traffic Impact Analysis and Routing Plan as detailed in this section and the following the provisions:

a. All private roads used to maintain access to the tank batteries or the well site shall be improved and maintained according to the following standards:

   i. The first 50 feet of access drive from the edge of pavement of the adjacent road will be paved, or made of an approved all weather surface, and the remaining portions of the access drive shall be composed of a minimum of six inches of compacted Class 5 road base.

   ii. The access drive entrance shall include returns with a 30 foot radius.

   Iii. A mud and debris tracking pad shall be located at the end of the paved portion of the access drive.iv. Access road shall be an all-weather roadway

having a prepared subgrade and an aggregate base course surface a minimum of six inches thick compacted to a minimum density of 95 percent of the maximum density determined in accordance with generally accepted engineering sampling and testing procedures. The aggregate material, at a minimum, shall meet the requirements for Class 5 Aggregate Base Course as specified for aggregate base course materials in the Colorado Department of Transportation's "Standard Specifications for Road and Bridge Construction," latest edition; and Graded so as to provide drainage from the roadway surface and constructed to allow for cross-drainage of waterways (such as roadside swales, gulches, rivers, creeks and the like) by means of an adequate culvert pipe. Adequacy of the pipe is subject to approval of the Town Engineer; and

Maintained so as to provide a passable roadway free of ruts at all times.

b. *Public access roads*. An extra-legal vehicle or load permit shall be required for all extralegal vehicles or loads as defined in Sections 42-4-401 through 42-4-414, C.R.S., as amended, which use Town streets. Said permit, if required, shall be obtained from the Town Engineer prior to such use. The Operator shall comply with all Town and state regulations regarding weight limitations on streets within the Town, and the Operator shall minimize extralegal truck traffic on streets within the Town.

c. Every permit issued by the Town shall require the Applicant to pay a fee that is sufficient to pay the estimated cost for all impacts which the proposed operation may cause to facilities owned or operated by the Town or used by the general public, including, but not limited to:

i. Repair and maintenance of roads;

ii. Bridges and other transportation infrastructure;

iii. Improvements made or to be made by the Town to accommodate the operations and to protect public health, safety and welfare; and

iv. Costs incurred to process and analyze the application, including the reasonable expenses paid to independent experts or consultants.

d. The Town shall establish a mechanism to assess and obtain payment of such fees, subject to the right of the Town to request additional funds if the fees prove to be insufficient, or to refund surplus funds to the Operator if the fees paid exceed the true cost of the impacts.

e. The Town may further require that the Applicant post a bond in an amount to be set during the Use by Special Review, as security in the event additional damages occur to facilities owned or operated by the Town or used by the general public.

f. As a condition of issuance of the permit and on an as-needed basis, the Town may require that additional site-specific measures be undertaken by the Operator in order to protect and preserve facilities owned or operated by the Town or used by the general public.

g. *Traffic Impact Analysis and Routing Plan*. A Traffic Impact Analysis and Routing Plan shall be submitted with all applications. The plan shall disclose routing alternatives

and transportation infrastructure improvements for the proposed operation to mitigate projected transportation impacts and demonstrate compliance with and implementation of the standards in this section. The Traffic Impact Analysis and Routing Plan shall be prepared by a third-party vendor approved by the Town. The Traffic Impact Analysis and Routing Plan shall include:

i. The proposed haul routes to and from the site, and public and private roads that traverse or provide access to the proposed operation;

ii. The estimated number of vehicle trips per day for each type of vehicle, estimated weights of vehicles when loaded, a description of the vehicles, including the number of wheels and axles of such vehicles and trips per day;

iii. The identification of impacts to Town roads and bridges related to facility construction, operations, and ongoing new traffic generation;

iv. A plan to mitigate transportation impacts that will typically include, but not be limited to, a plan for traffic control, ongoing roadway maintenance, and improving or reconstructing Town roads;

v. Detail of access locations for each well site including sight distance, turning radius of vehicles and a template indicating this is feasible, sight distance, turning volumes in and out of each site for an average day and what to expect during the peak hours;

vi. A truck routing map and truck turning radius templates with a listing of required improvements are necessary at intersections along the route;

vii. Restriction of non-essential traffic and prohibition of any class 7 vehicles and above to and from any oil and gas location to periods outside of peak morning and afternoon traffic periods during weekdays (7:00-8:00 a.m. and 3:00-6:00 p.m.); and

vii. Identification of need for any additional traffic lanes, which would be subject to the final approval of the Town.

17. Water quality protection. Water quality protection and sampling shall comply with the Water Quality Control Plan as outlined in this section and all applicable state and federal laws. To avoid or minimize adverse impacts to surface and sub-surface water bodies from oil and gas facilities, the following measures will be required:

a. *Water source sampling and testing.* Using records of the Colorado Division of Water Resources, the Applicant shall identify and offer to sample all available water sources located within one-half mile of the projected track of the borehole of a proposed well and within one-half mile of the radius of the proposed location. All sampling must be conducted by a third-party consultant approved by the Town. The Applicant / Operator shall provide all water source test results to the Town and maintain records of such results. Sampling requirements include:

i. Initial baseline samples and subsequent monitoring samples shall be collected from all available water sources within one-half mile of the projected track of the borehole of a proposed well and one-half mile radius of the oil and gas location;

ii. Initial collection and testing of baseline samples from available water sources shall occur within twelve months prior to the commencement of drilling a well, or within twelve months prior to the re-stimulation of an

existing well for which no samples were collected and tested during the previous twelve months;

iii. Post-stimulation samples of available water sources shall be collected and tested pursuant to the following time frame:

A. One sample within six months after completion;

B. One sample between twelve and eighteen months after completion; and

C. One sample between sixty and seventy-two months after completion.

b. For multi-well pads, collection shall occur annually during active drilling and completions.

c. Operator shall collect a sample from at least one up-gradient and two down-gradient water sources within a one-half mile radius of the oil and gas location. If no such water sources are available, operator shall collect samples from additional water sources within a radius of up to one mile from the location until samples from a total of at least one up-gradient and two down-gradient water sources are collected. Operators should give priority to the selection of water sources closest to the location.

d. An Operator may rely on existing groundwater sampling data collected from any water source within the radii described above, provided the data was collected within the twelve months preceding the commencement of drilling the well, the data includes measurement of all the constituents measured in Table 2, and there has been no significant oil and gas activity within a one-mile radius in the time period between the original sampling and the commencement of drilling the well.

e. Operator shall make reasonable efforts to obtain the consent of the owner of the water source to be sampled. If the Operator is unable to locate and obtain permission from the surface owner of the water source, the Operator shall advise the Town Administrator that the Operator could not obtain access to the water source from the surface owner.

f. Operator shall test for the analytes listed in Table 2, and subsequent testing as necessary or appropriate as determined by the Town.

g. Operator shall follow standard industry procedures in collecting samples, consistent with the ECMC model Sampling and Analysis Plan.

h. Operator shall report the location of the water source using a GPS with sub-meter resolution.

i. Operator shall report on damaged or unsanitary well conditions, adjacent potential pollution sources, odor, water color, sediment, bubbles, and effervescence.

j. Operator shall provide copies of all test results described above to the Town Administrator, the ECMC, and the water source owners within three months after collecting the samples.

k. *Subsequent sampling*. If sampling shows water contamination, the Town may require additional measures, including but not limited to the following:

i. If free gas or a dissolved methane concentration level greater than one milligram per liter (mg/l) is detected in a water source, determination of the gas type using gas compositional analysis and stable isotope analysis of the methane (carbon and hydrogen);

ii. If the test results indicate thermogenic or a mixture of thermogenic and biogenic gas, an action plan to determine the source of the gas;

iii. Immediate notification to the Town Administrator, the ECMC, and the owner of the water source if the methane concentration increases by more than five mg/l between sampling periods, or increases to more than ten mg/l;

iv. Immediate notification to the Town Administrator, the ECMC and the owner of the water source if BTEX and/or TPH are detected as a result of testing. Such detections may result in required subsequent sampling for additional analytes;

v. Further water source sampling in response to complaints from water source owners; and

vi. Timely production and distribution of test results, well location, and analytical data in electronic deliverable format to the Town Administrator, the ECMC and the water source owners.

l. All water source testing shall be conducted by a qualified independent professional consultant approved by the Town at the Operator's expense.

Table 2. Water Quality Analytes	
GENERAL WATER QUALITY	Alkalinity Conductivity & TDS Ph Dissolved Organic Carbon (or Total Organic Carbon)Bacteria Hydrogen Sulfide
MAJOR IONS	Bromide Chloride Fluoride Magnesium Potassium Sodium Sulfate Nitrate + Nitrite as N (total)
METALS	Arsenic Barium Boron Chromium Copper Iron Lead

	Manganese Selenium Strontium
DISSOLVED GASES AND VOLATILE ORGANIC COMPOUNDS	Methane Ethane Propane BTEX as Benzene, Toluene, Ethylbenzene, Xylenes Total Petroleum Hydrocarbons (TPH)
OTHER	Water Level Stable isotopes of water (Oxygen, Hydrogen, Carbon) Phosphorus

m. *Water Quality Control Plan.* Applicant shall submit a Water Quality Control Plan that details practices that will avoid impacts to water quality, comply with this section, and comply with all applicable state and federal water quality rules. The Plan shall include, but not necessarily be limited to plans for water quality testing, the prevention of illicit or inadvertent discharges and containment of pollutants in case of a discharge, and stormwater discharge management.

18. Water supply. The Applicant / Operator's acquisition and use of water must comply with Berthoud Municipal Code Section 30-2-120, the Water Supply Plan as outlined in this section, and all applicable state and federal laws. In addition:

a. The water supply used must be the least detrimental to the environment among the available sources and adequate to meet the needs of the oil and gas operation;

b. The water supply shall be legally and physically available, dependable, and sustainable. Operator will implement reuse and recycling to the greatest extent practicable;

c. The operation shall not use water from the Town's municipal water supply unless approved by the Board of Trustees; and

d. Any necessary water agreements must be secured prior to any oil and gas operations commencing.

e. *Water Supply Plan*. Applicant shall submit a Water Supply Plan prepared by a certified professional engineer approved by the Town that demonstrates compliance with the applicable standards in this section and includes:

i. A description of the physical source of the *water* that the Operator proposes to use to serve each phase of the operation;

ii. A list of all available physical sources of *water* other than the Town's municipal *water* for the operation, and if multiple sources are available, an analysis to determine which source is least detrimental to the environment;

iii. The amount of *water* needed for each phase of the operation;

iv. Proof that the source of *water supply* is physically and legally available and dependable for each phase of the operation;

v. A description of how *water* will be delivered to the site for each phase of the operation;

vi. A description of *water* efficiency methods;

vii. The amount of produced water expected to be recycled or reused; and

viii. The amount of wastewater produced, and disposal *plans* for wastewater.

19. Waste Management. Applicant must submit a Waste Management Plan for the disposal of all waste generated by the oil and gas facilities or oil and gas operations, including use of truck or pipeline transport with details of anticipated truck trips. The Plan shall include provisions for the recycling of drilling, completion, and flowback fluids unless technically infeasible. The Plan will identify whether waste materials will be stored on site and, if so, how such storage will avoid adverse impacts to the oil and gas facility parcel(s), surrounding lands, water, natural resources, wildlife resources, air quality, and public health, safety, and welfare. The Plan must specify whether on-site storage of drilling mud is contemplated and, if so, how the Applicant will eliminate odors leaving the site. The Plan must also include a description of any sources of technically enhanced naturally occurring radioactive material used in or generated by the oil and gas operations and how those materials will be disposed. The Operator shall adhere to its Plan and all applicable state and federal laws related to waste management during its operations.

20. Wildlife. Operators must comply with the Environmental Considerations section of the Design Standards section found in Chapter 30 of the Berthoud Municipal Code, all applicable state and federal laws related to wildlife resources and the Applicant's Wildlife Conservation Plan as outlined in this section.

a. *Wildlife Conservation Plan*. The Applicant shall submit a Wildlife Conservation Plan that contains a map of ecologically important areas including critical wildlife habitat areas, riparian areas, rivers, water bodies, wetlands, potential conservation areas as identified by the Colorado Natural Heritage Program Species of Concern listing, Tier 1 and Tier 2 species as identified by the Colorado Parks and Wildlife, and of federally-designated threatened or endangered species, as mapped by other applicable federal and state governmental agencies or discovered upon inspection, on and within one mile of the parcel(s) on which the oil and gas facilities are proposed to be located. It shall also include, at a minimum, the following information:

i. A description of the ownership, location, type, size, and other attributes of the wildlife habitat on the site;

ii. A description of the populations of wildlife species that inhabit or use the site including a qualitative description of their spatial distribution and abundance;

iii. An analysis of the potential adverse impacts of the proposed development on wildlife and wildlife habitat on or off-site;

iv. A list of proposed mitigation measures and an analysis of the probability of success of such measures;

v. A plan for implementation, maintenance, and monitoring of mitigation measures;

vi. A plan for any relevant enhancement or restoration measures; and

vii. A demonstration of fiscal, administrative, and technical competence of the applicant or other relevant entity to successfully execute the plan.

30-15-106: Application Outcome and Development Standards

A. **Application Outcome.** An application for a Use by Special Review will either be approved, approved with conditions, or denied. Denial shall occur if the proposed oil and gas facilities or operations cannot be conducted in a manner that protects public health, safety, and welfare, the environment and wildlife resources. Applications approved will be subject to any conditions placed on approval to ensure compliance with the standards listed in the Application Outcome and Development Standards found in this Section and the Use by Special Review standards found in Chapter 30 of the Berthoud Municipal Code. . An approved application will incorporate the plans submitted by the Applicant pursuant to the New oil and gas operation applications and Use by Special Review permit section, unless the Town requires additional industry recognized Best Management Practices or compliance with ECMC, CDPHE, and / or EPA rules, whichever is most protective of public health, safety, welfare, the environment and wildlife resources.

B. **Development Standards.** The following Development Standards can be found in the the New oil and gas operation applications and Use by Special Review permit section and establish minimum standards of operation at sites in the Town:

1. Air quality standards, the Air Quality Protection Plan, and the Well Liquids Unloading Plan;
2. Chemical and Hazardous Materials Use, Disclosure, and Handling provisions and the Chemical and Hazardous Materials Plan;
3. Emergency Response standards and the Emergency Response Plan;
4. Flood mitigation measures;
5. Flowlines and crude oil transfer lines provisions and the Pipelines Plan;
6. Fugitive Dust standards and the Fugitive Dust Control Plan;
7. Historic and Cultural Resources protections;
8. Incident and Accident Reporting provisions;
9. Leak Detection and Repair provisions and the Leak Detection and Repair Plan;
10. Lighting and visual impacts provisions and the Lighting and Visual Impacts Plan;
11. Noise and vibration provisions and the Noise and Vibration Mitigation Plan;
12. Odor mitigation provisions and the Odor Mitigation Plan;
13. Reclamation provisions and the Reclamation Plans;
14. Spill prevention, containment, and reporting and the Spill Prevention and Containment Plan;
15. Transportation impacts and the Traffic Impact Analysis and Routing Plan;
16. Water quality protection and the Water Quality Control Plan;
17. Water supply provisions and the Water Supply Plan;
18. Waste Management provisions; and
19. Wildlife protection and the Wildlife Conservation Plan.

C. **Variances.** Any request for a variance from the Development Standards outlined in this section shall indicate how the proposed variance would be similarly protective of public health, safety, welfare, the environment, and wildlife resources and follow the variance procedures outlined in Chapter 30 of the Berthoud Municipal Code.

D. **Annual Operator Registration.** Operators of any new oil and gas facilities approved after the effective date of this section shall submit an Annual Operator Registration to the Town within 60 days of approval of any new facility. Operator registration must be updated and renewed annually by January 15. Annual Operator Registration submittal requirements shall include:

1. A list of all wells and production within the Town during the previous three years;
2. List of any reportable safety events from its facilities within the Town during the previous three years as defined by ECMC Rule 602(g) or successor rules. Operator shall also list any root cause analyses conducted and corrective actions taken in response to the incidents, including internal changes to corporate practices or procedures;
3. List of any spills or releases from its facilities within the Town during the previous three years; and

4. List of any notices of alleged violations issued by the ECMC or CDPHE related to its facilities during the previous three years.

E. **Memorandum of Understanding.** A condition of approval for any new oil and gas operation application is a signed Memorandum of Understanding (MOU) between the Applicant / Operator and the Town. The MOU shall include, but not necessarily be limited to, the following conditions:

1. The Operator agrees to abide by all Town, state, and federal regulations applicable to the oil and gas operation, and the imposition of penalties for noncompliance pursuant to the section titled Inspctions, enforcement and fines found in Chapter 30 of Berthoud Municipal Code regarding oil and gas drilling and production;
2. The Operator agrees to cover any costs to repair the Town's transportation infrastructure necessitated by a proposed new oil and gas operation; and
3. The Operator shall reimburse the Town for all inspection costs necessary to inspect facilities approved under this section to determine compliance with this section and any permits issued by the Town. Such fees shall include actual costs incurred by the Town, including but not limited to employee or contractor time, employee or contractor supervision, legal and consulting fees, necessary equipment rental, mileage, and overhead. Costs may also include necessary personnel and time to analyze operator-submitted inspection and spill reports.

F. **Application fee**. An application for approval of a new oil and gas facility shall be accompanied by an application fee set by the Town. The Applicant is also responsible for all costs of reviewing and processing the permit application, including but not limited to the costs of legal, consultant, and referral agency review of the permit application, the pre-application conference, completeness determination, and all hearings and meetings on the permit application. All additional costs must be paid in full prior to final action by the Town on the permit application. A Memorandum of Understanding regarding payment of fees is an application requirement.

30-15-107: Insurance and financial assurances

A. Risk Management Plan. The Applicant shall submit a Risk Management Plan with its application. The plan shall include risk identification, frequency, responsibilities, assessment, response, planning mitigation, and methods of risk avoidance and control that implement techniques to prevent the accident/loss and reduce the impact after an accident/loss occurs. It shall also include a summary of how the Applicant will comply with the insurance and financial assurance requirements in this section. Operators shall periodically update and revise the plan, but at least every three years and after any incident listed in the New oil and gas operation applications and Use by Special Review permit section).

B. Insurance. Operator shall maintain or cause to be maintained, with insurers authorized by the state of Colorado and carrying a financial strength rating from A.M. Best of no less than A-VII (or a similar rating from an equivalent recognized ratings agency), at a minimum, the following types of insurance with limits no less than the amounts indicated:

1. Commercial general liability insurance on an occurrence form including coverage for bodily injury and property damage for operations and products and completed operations with limits of not less than $1,000,000 for each occurrence, $2,000,000 General Aggregate and $2,000,000 Products/Completed Operations Aggregate. The Town requires the Products/Completed Operations coverage to be provided three years after completion of construction. An endorsement must be included with the certificate;

2. Automobile liability insurance with limits of not less than $1,000,000 each accident covering owned, hired and non-owned vehicles;

3. Workers' compensation and Employer's Liability insurance must be maintained for all employees, providing statutory coverage and Employer's Liability insurance with minimum

limits of $100,000 each accident, $100,000.00 disease-each employee and $500,000 disease policy limit;

4. Control of well/operators extra expense insurance with limits of not less than $25,000,000 covering the cost of controlling a well that is out of control or experiences a blowout. Coverage shall include re-drilling or restoration expenses, legal liability for pollution-related bodily injury or property damage resulting from an out of control well event, loss of equipment and evacuation expense;

5. Umbrella/excess liability insurance in excess of general liability, employer's liability, and automobile liability with limits no less than $25,000,000 per occurrence; provided, however, that for so long as all pre-production phases are ongoing at the oil and gas location, Operator will maintain such insurance with limits no less than $100,000,000 per occurrence; and

6. Environmental liability/pollution legal liability insurance for gradual pollution events, providing coverage for bodily injury, property damage or environmental damage with limits no less than with limits of not less than $25,000,000 per pollution incident. Coverage shall include claims arising during transportation and at non-owned waste disposal sites. Should this insurance be on a claims-made basis the retroactive date must precede the date field activities were initiated.

7. *Contractors.* Operator shall require adequate insurance of its contractors and subcontractors. Operator agrees that it shall be responsible for any damage or loss suffered as a result of negligence by Operator or any subcontractor with these requirements.

8. Operator shall waive and cause its insurers to waive for the benefit of the Town any right of recovery or subrogation which the insurer may have or acquire against the Town or any of its affiliates, or its or their employees, officers or directors for payments made or to be made under such policies.

9. Operator is required to add the Town and its elected and appointed officials and employees as additional insureds under general liability (including operations and completed operations), auto liability, Environmental/Pollution Liability and umbrella liability policies.

10. Operator shall ensure that each of the policies are endorsed to provide that they are primary without right of contribution from the Town or any insurance or self-insurance otherwise maintained by the Town, and not in excess of any insurance issued to the Town.

11. Operator shall ensure that each of the policies above (excluding workers' compensation and control of well/operator’s extra expense) are endorsed to state that the inclusion of more than one insured under such insurance policy shall not operate to impair the rights of one insured against another insured and that the coverage afforded by each insurance policy shall apply as though a separate policy had been issued to each insured.

12. All policies shall be endorsed such that they cannot be canceled or non-renewed without at least thirty days' advanced written notice to the Operator and the Town, evidenced by return receipt via United States mail, except when such policy is being canceled for nonpayment of premium, in which case ten days advance written notice is required. Language relating to cancellation requirements stating that the insurer's notice obligations are limited to "endeavor to" are not acceptable.

13. Operator shall, prior to permit issuance, and at least annually, deliver certificates of insurance reasonably acceptable to the Town confirming all required minimum insurance is in full force and effect.

14. Deductibles or retentions shall be the responsibility of Operator. Deductibles or retentions must be listed on the certificate of insurance required herein and are subject to the reasonable approval of the Town.

15. Operator shall require any of its subcontractors to carry the types of coverage and in the minimum amounts in accordance with the requirements this section. Operator agrees that it shall be responsible for any damage or loss suffered by the Town as a result of non-compliance by Operator or any subcontractor with these requirements.

16. If Operator's coverage lapses, is cancelled or otherwise not in force, the Town reserves the right to obtain insurance required herein and charge all costs and associated expenses to Operator, which shall become due and payable immediately.

C. Financial Assurance. A surety bond or other financial assurance deemed acceptable by the Town is required from the Operator to ensure performance of all obligations of the Operator in compliance with all rules, regulations, and laws imposed by the Town, including the obligation to properly plug, abandon and reclaim all wells, well sites and pipelines. Upon the commencement of any work on the oil and gas operation, the Operator shall procure and deposit with the Town a surety bond issued by an insurer authorized by the state of Colorado and carrying a financial strength rating from A. M. Best of no less than A- VII. The amount of financial assurance required is $100,000 for an oil and gas location, but if the location includes more than one well, the assurance must include $100,000 for each additional well. The applicable bond amount shall be released when all oil and gas wells subject to the Application approval have been plugged and abandoned, and the site reclaimed, as determined by the Town.

30-15-108: Inspections, enforcement, and fines

A. Operator Inspections. Operators are required to inspect their oil and gas facilities to ensure compliance with all federal, state, county, and Town rules.

1. *Applicability*. This section applies to Operators of pre-existing oil and gas operations on property previously annexed by the Town or annexed subsequent to the effective date of this section, and to Operators who have obtained a Use by Special Review permit after the effective date of this section.

2. *Operator Inspections*. All Operators must inspect all oil and gas facilities, including shut-in and temporarily abandoned facilities, and all oil and gas operations as follows:

a. Conduct soil sampling for contamination within the boundaries of an oil and gas location and along pipeline routes annually;

b. Use equipment-assisted inspection for emissions or releases, including use of best available technology (such as infrared cameras), at least every 90 days; and

c. Conduct visual inspections for liquid leaks within the boundaries of an oil and gas location and along pipeline routes at least every 90 days.

3. *Inspection Reporting*. Operators will report the date, methodology, subject, and results of all inspections to the Town no later than the last day of each month.

4. *Spills, Leaks and Releases*. Spills, leaks, and releases of any substance other than fresh water, including spills of produced water, oil, condensate, natural gas liquids, all spills outside of secondary containment, gas leaks, other fugitive emissions, and exploration and production waste, shall be reported to the Town immediately upon discovery and no later than 8 hours thereafter. When leaks, spills, or releases are discovered by Town, Operator, or any other type of inspection, the enforcement mechanisms and penalty provisions in this section apply.

5. *Reporting*. For spills or other releases meeting the Colorado reporting requirements pursuant to Section 25-8-601(2), C.R.S. or ECMC Rule 912, or any successor statute or rule, Operators will adhere to all state reporting requirements.

6. *Clean-up*. Any leak, release, or spill shall be stopped and cleaned up according to applicable Town, county, state and federal laws, including Colorado Water Quality Control Commission regulations, the Colorado Oil and Gas Act, the federal Clean Air Act, and the federal Clean Water Act. Operators will notify the Town immediately upon completion of clean-up activities.

7. *Root Cause Analysis*. A root cause analysis of any spill, leak, or release of any substance other than fresh water that resulted in bodily injury or fatality, serious environmental harm, was a Grade 1 gas leak as defined by the ECMC, or is otherwise requested by the Town shall be submitted to the Town within 30 days of the leak, spill, or release.

B. Town Inspections. To monitor compliance with permit conditions or if the Town has reasonable cause to believe that a violation of the provisions of this section has occurred, the Town may inspect oil and gas facilities and commence enforcement if necessary to ensure compliance with the provisions of this section.

1. *Right to Enter*. Any oil and gas facility may be inspected by the Town, or the Town's designee, at any time to ensure compliance with the requirements of Town permits or the provisions of this section. Unless urgent circumstances exist, the Town will use best efforts to ensure that 1 hour of prior notice is given to the Operator's contact person at the telephone number on file. Town inspections will be coordinated with the Operator to ensure Operator presence onsite to the extent possible and to ensure the site visit is conducted in accordance with all applicable operator safety requirements. Inspections in response to odor complaints will occur as soon as feasible upon receipt of the complaint.

2. *Records*. Operators will disclose any and all information regarding operations or activities of the oil and gas operation to the Town. This includes, but is not necessarily limited to, daily drilling logs, air quality monitoring data, noise monitoring data or logs, water analysis reports, environmental assessments, daily activity logs or reports, and records or reports required by the CDPHE, the ECMC, the Colorado Public Utilities Commission, the Occupational Safety and Health Administration, and the Pipeline and Hazardous Materials Safety Administration. Operators shall submit all reports required by this rule to the Town electronically.

3. *Inspection fees*. The Town may require the Operator to pay reasonable inspection fees for inspections conducted by the Town or a third party approved by the Town as detailed in a Development Agreement.

C. Violations. Violations of any condition of approval or any provisions of this section may be subject fines, penalties, and other corrective actions.

1. *Process initiation*. If the Town Administrator has reasonable cause to believe that a violation has occurred, the Town Administrator will issue a notice of violation to the Operator. Each violation of an individual condition or Code provision will be considered a separate infraction. Each day a violation occurred will be considered a separate infraction. The Notice of Violation shall include:

a. Provisions of this Code or conditions imposed on a permit that were violated;

b. A short and plain statement of the facts alleged to constitute each violation;

c. A statement of the fines the Operator will be subject to as specified in this section; and

d. A demand that the violation that the violation be remedied and fines paid.

2. *Operator Response*. The Operator will have the time specified by the Town Administrator in the notice to respond to the notice of violation, unless an extension is requested in writing and granted by the Town Administrator. The response must address each violation, including the cause of the violation and any corrective actions taken, and identify any other relevant facts.

3. *Assessment of Penalty*. Based on the Operator's response, if any is provided, and any other competent evidence, the Town Administrator will determine if a violation has occurred and, if so, the appropriate penalty to assess. Any fine imposed after consideration of the response will be measured with respect to the first date of discovery of the violation or the date the violation first occurred and continues until the violation has been remedied to the satisfaction of the Town Administrator.

4. *Penalty Calculation*. The Town Administrator may assess a civil penalty up to $15,000 per violation per day, depending on the nature and severity of the violation, statutory authority, and application of the additional factors listed below.

a. To evaluate the severity of the violation, the Town Administrator will consider the following:

i. The degree of threatened or actual impact to public health, safety, welfare, the environment or wildlife;

ii. The existence, size, and proximity of potentially impacted livestock, wildlife, fish, soil, crops, water, and all other environmental resources;

iii. The degree of threatened or actual damage to agricultural lands, public lands, private property, freshwater sources, public drinking water, natural resources, environmental features, or wildlife;

iv. The size of any leak, release, or spill;

v. Whether the violation resulted in a significant waste of oil and gas resources;

vi. The toxicity of a leak, release, or spill;

vii. Whether the violation led to death or injury of persons or wildlife; and

vii. The duration of the violation.

b. In addition to considering the severity of the violation, the Town Administrator will consider the following:

i. Whether the same or similar violations have occurred at the location;

ii. Whether other violations have occurred at the location in the previous 24 months;

iii. The Operator's history of violations of any applicable rules, of similar or different types, at the location or others;

iv. The timeliness and adequacy of the Operator's corrective actions;

v. The degree the violation was outside of the Operator's reasonable control and responsibility;

vi. Whether the Operator acted with gross negligence, or knowing and willful misconduct;

vii. Whether the Operator self-reported; and

viii. Whether the Operator was cooperative with all agencies and jurisdictions involved in working to mitigate the impacts of the violation.

c. The Town may impose a penalty for violations of its Code and / or Conditions of Approval. The Town may impose its own penalty if the ECMC finds a violation of a similar requirement in its rules and imposes its own penalty; however, the Town Administrator shall consider the amount of the penalty imposed by the ECMC for its similar violation when calculating the Town's penalty.

5. *Suit to Enjoin ECMC Rule Violation*. If the Town discovers a violation or threatened violation of Title 34, Article 60 of the Colorado Revised Statutes or any rule, regulation, or order made under that Article, the Town will notify the ECMC in writing. If the ECMC fails to file a Notice of Alleged Violation against the Operator in a timely manner, the Town Attorney may file an action on behalf of the Town seeking injunctive relief.

6. *Other Penalties*. In addition to or in lieu of civil fines, the Town may exercise remedies for Operator violations including the following:

a. Increased Operator or Town inspection frequency at the Operator's expense;

b. Mandatory equipment upgrades;

c. A requirement to conduct an audit of the systems or equipment involved in the violation(s); and / or

d. A requirement for increased reporting to the Town.

7. **Written Order Suspending the Approval.** As a result of either (i) emergency conditions, or (ii) 3 or more fines imposed for violations within 12 months, the Town may issue a written order to the Operator. Upon receipt, the Operator shall cease all activities and operations immediately until the violation is remedied or appeal the order suspending approval to the Board of Trustees within 14 days.

8. **Other Enforcement Remedies.** In addition to the foregoing enforcement measures, the Town has the right to any and all other enforcement measures and remedies provided by law, including but not limited to injunctive or other relief through the courts to enforce any conditions of the Development Agreement or to stop or abate any oil and gas operations occurring or about to occur without the requisite special use, required permits, or other Town approvals. Nothing in this section shall limit the remedies available to the Town for a violation of this section.

30-15-109: Seismic Operations

A. An Operator seeking to conduct any seismic operations within the Town must obtain a Seismic Operations Permit. As part of the Town's Seismic Operations Permit, the Operator shall submit an application fee and

development review deposit as specified in the Town's Fee Schedule. Additionally, the Operator shall submit the following information to the Town as part of the Seismic Operations Permit:

1. A timeline for the seismic operation;
2. A map of any existing mines underlying the project area, and within 1-kilometer (3,280 feet) of the seismic operation boundary;
3. A map of any water sources within 1-kilometer (3,280 feet) of the seismic operation boundary;
4. A map of any occupied buildings and / or dwelling units within 1-kilometer (3,280 feet) feet of the seismic operation;
5. A list of equipment to be used during the seismic operation;
6. Plans to monitor and control the seismic operation to prevent any damage to any infrastructure;
7. A public notification plan for buildings along any vibriosis truck routes;
8. An assessment by a certified engineer demonstrating the roads to be used in the project are able to endure the vibrations generated by the seismic operation;
9. Proof of adequate insurance for any potential damage caused by the seismic operation;
10. Copies of written permission from any landowner whose land will be utilized for the seismic operation;
11. The company or companies responsible for performing the seismic operation and contact information of those companies;
12. A traffic control plan; and
13. Any other information the Town deems reasonable and necessary to protect public health, safety, welfare, the environment and wildlife.

B. The Town will approve, deny, or place conditions of approval on Seismic Operations Permit in accordance with the criteria outlined in the purpose, authorities and application to existing facilities section .

C. The Operator shall notify building occupants and property owners as outlined in its Seismic Operations Permit within thirty (30) days after approval of the Permit or within fourteen (14) days of conducting the operation, whichever is closer to the Seismic Operation.

30-15-110: Judicial Review

A. Decisions by the Board of Trustees shall be subject to judicial review as applicable pursuant to C.R.C.P. 106(a)(4).

SECTION 16 – WIRELESS COMMUNICATION FACILITIES (WCF)

30-16-101 Purpose and Goals. The purpose of these provisions is to establish requirements for the siting of Wireless Communications Facilities. The goals of these provisions are to:

A. Provide for the managed development and installation, maintenance, modification, and removal of wireless communications infrastructure in the Town with the fewest number of WCFs to complete a network without unreasonably discriminating against wireless communications providers of functionally equivalent services including all of those who install, maintain, operate, and remove WCFs.
B. Promote and protect the public health, safety, and welfare by reducing the visibility of WCFs to the fullest extent possible through techniques including but not limited to concealment design techniques and undergrounding of the equipment associated with WCFs.
C. Encourage the deployment of smaller, less intrusive WCFs where appropriate to supplement existing larger WCFs.
D. Encourage the use of wall mounted panel antennas.
E. Encourage roof mounted antennas when wall mounted antennas will not provide adequate service or are not otherwise feasible.
F. Encourage the location of Towers in non-residential areas, in a manner that minimizes the total number of Towers needed throughout the community.
G. Encourage strongly the collocation of WCFs on new and existing Sites.
H. Encourage owners and users of antennas and Towers to locate them, to the extent possible, in areas where the adverse impact on the community is minimized.
I. Enhance the ability of WCF providers to provide such services to the community quickly, effectively, and efficiently.
J. Effectively manage WCFs in the Right-of-Way.

30-16-102 Definitions. The following definitions apply to this Section.

Alternative Tower Structure: Any man-made clock towers, bell steeples, light poles, water towers, farm silos, or similar alternative design mounting structures approved by the Town, that conceal where technically feasible the presence of WCFs to make them architecturally compatible with the surrounding area pursuant to this Section. A stand- alone pole in the Right-of-Way that accommodates Small Cell Facilities is considered an Alternative Tower Structure provided it meets the concealment standards of this Section. Alternative Tower Structures are not considered Towers, for the purposes of this Section.

Antenna: Any device used to transmit and/or receive radio or electromagnetic waves such as, but not limited to panel antennas, reflecting discs, microwave dishes, whip antennas, directional and non-directional antennas consisting of one or more elements, multiple antenna configurations, or other similar devised and configurations.

Antennas, panel: An array of antennas, rectangular in shape, used to transmit and receive telecommunication signals.

Antenna, whip: A single antenna that is cylindrical in shape and omni-directional.

Base Station: A structure or equipment at a fixed location that enables FCC-licensed or authorized wireless communications between user equipment and a communications network. The definition of Base Station does not include or encompass a Tower as defined herein or any equipment associated with a Tower. Base Station does include, without limitation:

A. Equipment associated with wireless communications services such as private broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul that, at the time the relevant application is filed with the Town under this Section, has been reviewed and approved under the applicable zoning or siting process, or

under another State or local regulatory review process, even if the structure was not built for the sole or primary purpose of providing such support.

B. Radio transceivers, antennas, coaxial or fiber-optic cable, regular and backup power supplied, and comparable equipment, regardless of technological configuration (including Distributed Antenna Systems ("DAS") and small cell networks) that, at the time the relevant application is filed with the Town under this Section, has been reviewed and approved under the applicable zoning or siting process, or under another State or local regulatory review process, even if the structure was not built for the sole or primary purpose of providing such support.

The definition of Base Station does not include any structure that, at the time the relevant application is filed with the Town under this Section, does not support or house equipment described in paragraphs A and B above.

Camouflage or Camouflage Design Techniques: Measures used in the design and siting of Wireless Communication Facilities with the intent to minimize or eliminate the visual impact of such facilities to surrounding uses. A WCF Site utilizes Camouflage Design Techniques when it (i) is integrated as an architectural feature of an existing structure, or (ii) is integrated in an outdoor fixture such as a flagpole, while still appearing to some extent as a WCF. This definition does not include the use of Concealment design elements so that a facility looks like something other than a wireless Tower or Base Station.

Collocation:

A. For the purposes of Eligible Facilities Requests, means the mounting or installation of transmission equipment on an Eligible Support Structure for the purpose of transmitting and /or receiving radio frequency signals for communications purposes.
B. For the purposes of facilities subject to shot clocks governed by 47 U.S.C. Sec. 332, means attachment of facilities to existing structures, regardless of whether the structure or location has previously been zoned for wireless facilities.

Concealment: Utilization of elements of stealth design in a facility so that the facility looks like something other than a wireless Tower or Base Station. Language such as “stealth,” “camouflage,” or similar in any permit or other document required by the Town Code is included in this definition to the extent such permit or other document reflects an intent at the time of approval to condition the site’s approval on a design that looks like something else. Concealment can further include a design which mimics and is consistent with the nearby natural, or architectural features (such as an artificial tree), or is incorporated into (including without limitation, being attached to the exterior of such facility and painted to match it) or replaces existing permitted facilities (including without limitation, stop signs or other traffic signs or freestanding light standards) so that the presence of the WCF is not apparent. This definition does not include conditions that merely minimize visual impact but do not incorporate Concealment design elements so that the facility looks like something other than a wireless Tower or Base Station.

Eligible Facilities Request: Any request for modification of an Existing Tower or Base Station that does not Substantially Change the physical dimensions of such Tower or Base Station involving:

A. Collocation of new Transmission Equipment.
B. Removal of Transmission Equipment.
C. Replacement of Transmission Equipment.

A request for modification of an Existing Tower or Base Station that does not comply with the generally applicable building, structural, electrical, and safety codes or with other laws codifying objective standards reasonably related to health and safety, or does not comply with any relevant federal requirements, is not an Eligible Facilities Request.

Eligible Support Structure: Any Tower or Base Station as defined in this Section, provided that it is Existing at the time the relevant application is filed with the Town under this Section.

Equipment Cabinets: A cabinet or building used to house equipment used by wireless communications providers at a Wireless Communications Facility. This definition does not include relatively small electronic components, such as remote radio units, radio transceivers, amplifiers, or other devices mounted behind antennas, if they are not used as physical containers for smaller, distinct devices.

Existing: For purposes of this Section, a constructed Tower or Base Station that was reviewed, approved, and lawfully constructed in accordance with all requirements of applicable law as of the time of an Eligible Facilities Request, provided that a Tower that exists as a legal, non-conforming use and was lawfully constructed is existing for purposes of this definition.

OTARD Antenna:

A. An antenna that is designed to receive direct broadcast satellite service, including direct-to-home satellite services, that is one meter or less in diameter; or
B. An antenna that is designed to receive video programming services via multipoint distribution services, including multichannel multipoint distribution services, instruction television fixed services, and local multipoint distribution services, and that is one meter or less in diameter or diagonal measurement; or
C. An antenna that is designed to receive television broadcast signals.

OTARD antenna structure: Any pole, Tower, or other structure designed and intended to support an OTARD Antenna.

Related Accessory Equipment: The Transmission Equipment customarily used with, and incidental to Wireless Communication Facilities antennas, including by way of example, coaxial or fiber-optic cable, regular and backup power supply and remote radio units.

Right-of-Way: In the context of this Section, any public street or road that is dedicated to public use for vehicular traffic except for those rights-of-way owned by the Colorado Department of Transportation within the Town limits.

Site: In the context of this Section, for Towers and Eligible Support Structures, a Site means the current boundaries of the leased or owned property surrounding the Tower or Eligible Support Structure and any access or utility easements currently related to the Site. For Alternative Tower Structures, Base Stations and Small Cell Facilities in the Right-of-Way, a Site is further restricted to that area comprising the base of the structure and to other Related Accessory Equipment already installed on the ground.

Small Cell Facility: A WCF where each antenna is located inside an enclosure of no more than three (3) cubic feet in volume or, in the case of an antenna that has exposed elements, the antenna and all of its exposed elements could fit within an imaginary enclosure of no more than three (3) cubic feet; and primary equipment enclosures are no larger than seventeen (17) cubic feet in volume. The following associated equipment may be located outside of the primary equipment enclosure and, if so located, is not included in the calculation of equipment volume: electric meter, concealment, telecommunications demarcation box, ground-based enclosure, back-up power systems, grounding equipment, power transfer switch and cut-off switch.

Substantial Change: A modification substantially changes the physical dimensions of an Eligible Support Structure if after the modification, the structure meets any of the following criteria:

A. For Towers, it increases the height of the Tower by more than ten percent or by the height of one additional antenna array with separation from the nearest existing antenna not to exceed twenty (20) feet, whichever is greater, as measured from the top of an existing antenna to the

bottom of a proposed new antenna; for other Eligible Support Structures, it increases the height of the structure by more than ten percent or more than ten (10) feet, whichever is greater, as measured from the top of an existing antenna to the bottom of a proposed new antenna;

B. For Towers, it involves adding an appurtenance to the body of the Tower that would protrude from the edge of the Tower more than twenty (20) feet, or more than the width of the Tower structure at the level of the appurtenance, whichever is greater; for Eligible Support Structures, it involves adding an appurtenance to the body of the structure that would protrude from the edge of the structure by more than six (6) feet;

C. For any Eligible Support Structure, it involves installation of more than the standard number of new equipment cabinets for the technology involved, as determined on a case-by-case basis based on the location of the Eligible Support Structure but not to exceed four cabinets per application; or for Base Stations, it involves installation of any new equipment cabinets on the ground if there are no pre-existing ground cabinets associated with the structure, or else involves installation of ground cabinets that are more than ten percent larger in height or overall volume than any other ground cabinets associated with the structure;

D. It entails any excavation or deployment outside of the current site, except that, for Towers other than Towers in the Public Rights-of-Way, it entails any excavation or deployment of Transmission Equipment outside of the current site by more than 30 feet in any direction. The site boundary from which the 30 feet is measured excludes any access or utility easements currently related to the site.

E. For any Eligible Support Structure, it would defeat the Concealment elements of the Eligible Support Structure by causing a reasonable person to view the structure's intended stealth design as no longer effective for any Eligible Support Structure, it does not comply with record evidence of conditions associated with the siting approval of the construction or modification of the Eligible Support Structure or Base Station equipment, unless the non-compliance is due to an increase in height, increase in width, addition of cabinets, or new excavation that would not exceed the thresholds identified in paragraphs a, b, and c of this definition.

For purposes of determining whether a Substantial Change exists, changes in height are measured from the original support structure in cases where deployments are or will be separated horizontally, such as on building rooftops; in other circumstances, changes in height are measured from the dimensions of the Tower or Base Station, inclusive of approved appurtenances and any modifications that were approved prior to February 22, 2012.

Tower: Any structure that is designed and built for the sole or primary purpose of supporting any FCC-licensed or authorized antennas and their associated facilities, including structures that are constructed for wireless communications services including, but not limited to, private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul, and the associated Site. The term includes radio and television transmission towers, self- supporting lattice towers, guy towers, monopoles, microwave towers, common carrier towers, cellular telephone towers and the like. Alternative Tower Structures and Small Cell Facilities in the Rights-of-Way are not Towers.

Transmission Equipment: Equipment that facilitates transmission for any FCC licensed or authorized wireless communication service, including, but not limited to, radio transceivers, antennas, coaxial or fiber-optic cable, and regular and backup power supply. The term includes equipment associated with wireless communications services including, but not limited to, private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul.

Wireless Communications Facility or WCF: A facility used to provide personal wireless services as defined at 47 U.S.C. Section 332 (c)(7)(C); or wireless information services provided to the public or to such classes of users as to be effectively available directly to the public via licensed or unlicensed frequencies; or wireless utility monitoring and control services. A WCF does not include a facility entirely

enclosed within a permitted building where the installation does not require a modification of the exterior of the building; nor does it include a device attached to a building, used for serving that building only and that is otherwise permitted under other provisions of the Code. A WCF includes an antenna or antennas, including without limitation, directions, omni-directions and parabolic antennas, Base Stations, support equipment, Small Cell Facilities, Alternative Tower Structures, and Towers. It does not include the support structure to which the WCF or its components are attached if the use of such structures for WCFs is not the primary use. The term does not include mobile transmitting devices used by wireless service subscribers, such as vehicle or handheld radios/telephones and their associated transmitting antennas, nor does it include other facilities specifically excluded from the coverage of this Section.

30-16-103Applicability; Waiver; Exemptions. The requirements set forth in this Section shall apply to all WCF applications for Base Stations, Alternative Tower Structures, Alternative Tower Structures located within Right-of-Way, and Towers as defined elsewhere herein. The Town, through an appropriately designated and authorized person, shall have the authority to waive any requirement or standard set forth in this Section as it may be proposed to be applied to a specific WCF, if the Town makes a determination that the specific requirement or standard as proposed to be applied is preempted by federal or state law. Prior to applying the waiver to any pending application, the Town shall, in consultation with the Town Administrator and Town Attorney, make a written preemption determination which written determination shall identify the specific requirement or standard that is being waived and cite to the specific federal or state law provision that preempts the specific Town requirement or standard set forth in this Section. The requirements set forth in this Section shall not apply to:

A. *Amateur Radio Antennas.* Amateur radio antennas that are owned and operated by a federally licensed amateur radio station operator or are used exclusively for receive-only antennas, provided that the requirement that the height be no more than the distance from the base of the antenna to the nearest property line is met. The Town or their designee has the authority to approve modifications to the height restriction, if in the reasonable discretion of the Town, modifications are necessary to comply with federal law.

B. *Pre-existing WCFs.* Any WCF for which a permit has been properly issued prior to the effective date of this Section, shall not be required to meet the requirements of this Section, other than the requirements of subparagraphs Section D.1, Section D.5 and Section D.6 below. Changes and additions to pre-existing WCFs (including trading out of antennas for an equal number of antennas) shall meet applicable requirements of this Section.

C. *Miscellaneous Antennas.* Antennas used for reception of television, multi-channel video programming and radio such as OTARD antennas, television broadcast band antennas, and broadcast radio antennas, provided that the requirement that the height be no more than the distance from the base to the nearest property line are met. The Town Administrator or their designee has the authority to approve modifications to the height restriction related to OTARD antennas and OTARD antenna structures, if in the reasonable discretion of the Town, modifications are necessary to comply with federal law.

30-16-104Operational Standards. The following operational standards shall apply.

A. Federal Requirements. All WCFs shall meet the current standards and regulations of the FAA, the FCC and any other agency of the federal government with the authority to regulate WCFs. If such standards and regulations are changed, then the owners of the WCF governed by this Section shall bring such facility into compliance with such revised standards and regulations within the time period mandated by the controlling federal agency. Failure to meet such revised standards and regulations shall constitute grounds for the removal of the WCF at the owner's expense.

B. Radio Frequency Standards. All WCFs shall comply with federal standards for radio frequency emissions. The Town may require that the owner or operator of the WCF provide information demonstrating compliance. If such information is not sufficient, in the reasonable discretion of the Town, to demonstrate compliance, the Town may require the owner or operator of the WCF to submit a project implementation report which

provides cumulative field measurements of radio frequency emissions of all Antennas installed at the subject Site, and which compares the results with established federal standards. If, upon review, the Town finds that the facility does not meet federal standards, the Town may require corrective action within a reasonable period of time, and if not corrected, may require removal of the WCF. Any reasonable costs incurred by the Town, including reasonable consulting costs to verify compliance with these requirements, shall be paid by the applicant.

C. *Signal Interference.* All WCFs shall be designed and sited so as not to cause interference with the normal operation of radio, television, telephone and other communication services utilized by adjacent residential and non-residential properties; nor shall any such facilities interfere with any public safety communications. The Applicant shall provide a written statement ("Signal Interference Letter") from a qualified radio frequency engineer, certifying that a technical evaluation of existing and proposed facilities indicates no potential interference problems.

D. *Legal Access.* In all applications for WCFs outside of the Right-of-Way, an Applicant shall demonstrate that it owns or has lease rights to the Site.

E. *Operation and Maintenance.* To ensure the structural integrity of WCFs, the owner of a WCF shall ensure that it is maintained in compliance with standards contained in applicable local building and safety codes. If upon inspection, the Town determines that a WCF fails to comply with such codes and constitutes a danger to persons or property, then, upon written notice being provided to the owner of the WCF, the owner shall have thirty (30) days from the date of notice to bring such WCF into compliance. Upon good cause shown by the owner, the Town may extend such compliance period not to exceed ninety (90) days from the date of said notice. If the owner fails to bring such WCF into compliance within said time period, the Town may remove such WCF at the owner's expense. No hazardous materials shall be permitted in association with WCFs, except those necessary for the operations of the WCF and only in accordance with all applicable laws governing such materials.

F. *Abandonment and Removal.* If a WCF has not been in use for a period of three months, the owner of the WCF shall notify the Town of the non-use and shall indicate whether re-use is expected within the ensuing three months. Any WCF that is not operated for a continuous period of six months shall be considered abandoned. The Town, in its sole discretion, may require an abandoned WCF to be removed. The owner of such WCF shall remove the same within thirty (30) days of receipt of written notice from the Town. If such WCF is not removed within said thirty (30) days, the Town may remove it at the owner's expense and any approved permits for the WCF shall be deemed to have expired.

30-16-105 Design and Siting Standards. The requirements set forth in this Section shall apply to the location and design of all WCFs governed by this Section as specified below; provided, however, that the Town may waive any one or more of these requirements it if determines that the goals of this Section are better served thereby. WCFs shall be designed and located to minimize the impact on surrounding properties and residential neighborhoods and to maintain the character and appearance of the Town, consistent with other provisions of this Code. In addition to the provisions of this Code, applicants shall comply with the Town's Wireless Communications Design Standards, which may be adopted and amended from time to time by the Town Administrator.

A. *Camouflage/Concealment.* All WCFs and any Related Accessory Equipment shall, to the maximum extent possible, use Concealment Design Techniques, and where not possible utilize Camouflage Design Techniques. Camouflage Design Techniques include, but are not limited to using materials, colors, textures, screening, undergrounding, landscaping, or other design options that will blend the WCF to the surrounding natural setting and built environment.

B. Where WCFs are located in areas of high public visibility, they shall, where physically possible, be designed to be concealed, and where not possible to be concealed, to minimize the WCF profile through placement of equipment fully or partially

underground, or by way of example and not limitation, behind landscape berms.

C. Concealment design may include the use of Alternative Tower Structures should the Town determine that such design meets the intent of this Code and the community is better served thereby.

D. All WCFs, such as antennas, vaults, equipment rooms, equipment enclosures, and Towers shall be constructed of non-reflective materials (visible exterior surfaces only).

E. Siting.

1. No portion of any WCF may extend beyond the property line.

2. WCFs shall be required to be designed and constructed to permit the facility to accommodate WCFs from at least two wireless communications providers on the same WCF. No WCF owner or operator shall unfairly exclude a competitor from using the same facility or Site.

3. WCFs shall be sited in a location that does not reduce the parking for the other principal uses on the parcel below Code standards.

4. WCFs shall not encroach into any sight triangles.

5. WCFs shall not encroach into recorded/documented easements without permission from the underlying property owner and the easement holder.

F. Lighting. WCFs shall not be artificially lighted, unless required by the FAA or other applicable governmental authority, or the WCF is mounted on a light pole or other similar structure primarily used for lighting purposes. If lighting is required, the Town may review the available lighting alternatives and approve the design that would cause the least disturbance to the surrounding views. Lighting shall comply with the Town's Dark Sky Standards, and be shielded or directed to the greatest extent possible so as to minimize the amount of glare and light falling onto nearby properties, particularly residences.

G. Landscape and Fencing Requirements.

1. WCFs shall be sited in a manner that does not reduce the landscaped areas for the other principal uses on the lot or parcel, below any applicable Code standards including without limitation, Planned Unit Development standards.

2. Except for WCFs in the Right-of-Way, the Site of the WCF shall be landscaped with a buffer of plant materials that effectively screen the view of the WCF from adjacent residential property. The standard buffer shall consist of the front, side, and rear landscaped setback on the perimeter of the Site.

3. In locations where the visual impact of the WCF would be minimal, the landscaping requirement may be reduced or waived in whole or in part by the Town.

4. Existing mature tree growth and natural landforms on the Site shall be preserved to the maximum extent possible. In some cases, such as WCFs sited on large, wooded lots, natural growth around the Site perimeter may be sufficient to buffer.

5. No trees larger than four (4) inches in diameter measured at 4½ feet high on the tree from grade may be removed, unless authorized by the Town. To obtain such authorization the Applicant shall show that tree removal is necessary, the Applicant's plan minimizes the number of trees to be removed and that any trees removed are replaced at a ratio of 2 to 1 with tree species to be approved by the Town.

   i. The applicant shall provide a maintenance plan to ensure the replacement trees shall be irrigated and maintained to the Town for approval prior to the removal of any tree.

H. *Specific Design Requirements.* Additional design requirements shall be applicable to the types of WCFs as specified below:

1. Base Stations –

- *a*. Base Stations shall be architecturally compatible with respect to attachments, and colored to match the building or structure to which they are attached;

b. The maximum protrusion of such facilities from the building or structure face to which they are attached shall be two (2) feet;

c. Wall mounted WCFs shall not extend above the roofline unless mounted to a penthouse; and

d. Roof mounted WCFs shall be approved only where an Applicant demonstrates a wall mounted WCF is inadequate to provide service and shall be evaluated for approval based upon the following criteria:

i. Roof mounted whip antennas shall extend no more than twelve (12) feet above the parapet of any flat roof or ridge of a sloped roof or penthouse to which they are attached;

ii. Roof mounted panel antennas shall extend no more than seven (7) feet above the parapet of a flat roof or ridge of a sloped roof to which they are mounted; and

iii. Other roof mounted Related Accessory Equipment shall extend no more than seven (7) feet above any parapet of a flat roof upon which they may be placed, and shall not be permitted on a sloped roof.

2. *B.Alternative Tower Structures (ATS) and Small Cell Facilities not located in the Right-of-Way –*

a. ATS shall be designed and constructed to look like a building, facility, or structure typically found in the area, in order that the WCF is Concealed.

b. Height or size of the proposed ATS or Small Cell Facility should be minimized as much as possible and shall be subject to the maximum height restrictions of the zoning district in which they are located, as set forth in The Zoning Section, Chapter 30 of the Town's Municipal Code, as amended.

c. ATS shall be sited in a manner that is least obtrusive to residential structures and residential district boundaries;

d. ATS should take into consideration the uses on adjacent and nearby properties and the compatibility of the facility to these uses;

e. ATS and Small Cell Facilities shall be compatible with the surrounding topography, tree coverage, and foliage;

f. ATS and Small Cell Facilities shall be designed utilizing design characteristics that have the effect of concealing where technically feasible and generally reducing or eliminating visual obtrusiveness; and

g. Visual impacts of the proposed ingress and egress shall be minimized.

3.Alternative Tower Structures and Small Cell Facilities located in the Right-of- Way –

a. No ATS pole shall be higher than thirty-five (35) feet including any cannister or antennas located on top of a pole;

b. No pole or structure shall be more than ten (10) feet higher (as

measured from the ground to the top of the pole or structure) than any existing utility or traffic signal within five hundred (500) feet of the pole or structure;

c. Any new pole for ATS or Small Cell Facilities shall be separated from any other existing WCF facility by a distance of at least six hundred (600) feet, unless the new pole replaces an existing traffic signal, street light or utility pole;

d. With respect to pole-mounted components, Small Cell Facilities shall be located on an existing utility pole serving another utility; or be located on a new utility pole where other utility distribution lines are aerial, if there are no reasonable alternatives;

e. ATS must be concealed consistent with other existing natural or manmade features in the Right-of-Way near the location where the ATS will be located;

f. To the extent reasonably feasible, be consistent with the size and shape of the pole-mounted equipment installed by communications companies on utility poles near the ATS;

g. When placed near a residential property, any ATS or Small Cell Facilities must be placed in front of the common side yard property line between adjoining residential properties. In the case of a corner lot, the facility must be placed in front of the common side yard property line adjoining residential properties, or on the corner formed by two intersecting streets;

h. Small Cell Facilities shall:

i. be designed such that antenna installations on traffic signals are placed in a manner so that the size, appearance, and function of the signal will not be considerably altered; and

ii. be designed such that all antennas, mast arms, equipment, and other facilities are sized to minimize visual clutter, and where possible, concealed within the structure; and

iii. be consistent with the size and shape of the pole-mounted equipment installed by communications companies on utility poles near the ATS; and

iv. require that any ground mounted equipment be installed in an underground or partially underground equipment vault (projecting not more than thirty-six (36) inches above grade) or the maximum height permissible through the Town's Engineering specifications and standards for ground mounted utility equipment, or co-located within a traffic cabinet of a design approved by the Town, unless a use by special review is obtained subject to the requirements of the Town Code; and

v. not alter vehicular circulation or parking within the Right-of- Way or impede vehicular, bicycle, or pedestrian access or visibility along the Right-of-Way; and

vi. comply with the federal Americans With Disabilities Act and all applicable local, state, and federal law and regulations; and

vii. not be located or maintained in a manner that causes unreasonable interference. Unreasonable interference means any use of the Right-of-Way that disrupts or interferes with its use by the Town, the general public, or other person authorized to use or be present upon the Right-of-Way, when there exists

an alternative that would result in less disruption or interference. Unreasonable interference includes any use of the Right-of-Way that disrupts vehicular or pedestrian traffic, any interference with public utilities, and any other activity that will present a hazard to public health, safety, or welfare.

4.Towers -

a. Towers shall either maintain a galvanized steel finish, or, subject to any applicable FAA standards, be painted a neutral color so as to reduce visual obtrusiveness as determined by the Town;

b. Tower structures should use existing landforms, vegetation, and structures to aid in concealing the facility from view or blending in with the surrounding built and natural environment;

c. Monopole support structures shall taper from the base to the tip;

d. All Towers shall be enclosed by security fencing or wall at least six (6) feet in height and shall also be equipped with an appropriate anti-climbing device. No security fencing or any portion thereof shall consist of barbed wire or chain link material; and

e. Towers shall be subject to the maximum height restrictions of the zoning district in which they are located, subject to a maximum height limit of sixty (60) feet.

f. Towers should be sited in a manner that is least obtrusive to residential structures and residential district boundaries where feasible;

g. Towers should take into consideration the uses on adjacent and nearby properties and the compatibility of the Tower to these uses;

h. Towers should be designed utilizing design characteristics that have the effect of reducing or eliminating visual obtrusiveness;

i. Visual impacts of the proposed ingress and egress shall be minimized;

j. No new Towers shall be permitted unless the Applicant demonstrates to the reasonable satisfaction of the Town that no existing WCFs can accommodate the needs that the Applicant proposes to address with its Tower application. Evidence submitted to demonstrate that no existing WCFs can accommodate these needs may consist of the following:

i. No existing WCFs are of sufficient height and are located within the geographic area required to meet the Applicant's engineering requirements;

ii. Existing WCFs do not have sufficient structural strength to support Applicant's proposed WCF;

iii. The Applicant's proposed WCF would cause electromagnetic interference with the WCFs on the existing WCFs or the existing WCFs would cause interference with the Applicant's proposed WCF; or

iv. The Applicant demonstrates that there are other limiting factors that render existing WCFs unsuitable for collocation.

k. A Tower shall meet the greater of the following minimum setbacks from all property lines:

i. The setback for a principal building within the applicable zoning;

ii. Twenty-five (25) percent of the facility height, including WCFs

and Transmission Equipment; or if the Tower height, including antennas, if the Tower is in or adjacent to a residential district or residential zoned property.

iii. For Sites within or adjacent to residential zones, Towers over forty (40) feet in height shall not be located within one-quarter mile from any existing Tower that is over forty (40) feet in height, unless the Applicant has shown to the satisfaction of the Town that there are no reasonably suitable alternative sites in the required geographic area which can meet the Applicant's needs.

l. No Towers shall be permitted in the Right-of-Way.

5.Related Accessory Equipment - Related Accessory Equipment for all WCFs shall meet the following requirements:

a. All buildings, shelters, cabinets, and other accessory components shall be grouped as closely as technically possible;

b. For WCFs outside of the Right-of-Way, the total footprint coverage area of the WCF's Related Accessory Equipment shall not exceed three hundred fifty (350) square feet;

c. No Related Accessory Equipment or accessory structure shall exceed twelve (12) feet in height; and

d. Related Accessory Equipment shall be located out of sight whenever possible by locating behind parapet walls or within equipment enclosures. Where such alternate locations are not available, the Related Accessory Equipment shall be concealed where technically feasible or otherwise camouflaged in a manner appropriate for the specific site.

6..Additional Design Standards. The Town may adopt administrative regulations addressing additional design standards for WCFs.

30-16-106 Review Procedures and Requirements. No new WCF shall be constructed and no collocation or modification to any existing WCF may occur except after a written request from an Applicant, reviewed and approved by the Town in accordance with this Section. In addition to following the procedures and regulations regarding land use approval, the applicant is responsible for coordinating any building permit activities with the Town. All WCFs, except Eligible Facilities Requests, shall be reviewed pursuant to the following procedures:

A. *Submittal Requirements.* Each Applicant for a WCF shall be required to submit:

1. A Signal Interference Letter
2. For new Towers and attachments to buildings, an inventory of Existing Sites
3. A stamped report by a state of Colorado registered professional engineer, or a verified statement from a qualified radio frequency engineer, demonstrating or assuring that the site will be in full compliance with federal radio-frequency emissions standards for wireless facilities; and
4. A stamped plan or report by a state of Colorado registered professional engineer indicating the structure is structurally sound to support the WCF.
5. For all sites except Small Cell Facilities located in the Rights-of-Way, a site plan map prepared in accordance with the Site Plan Map standards as detailed in Chapter 30 of the Berthoud Municipal Code. Applications for Small Cell Facilities located in the Rights-of-Way shall provide a map illustrating the location of the facility.
6. A project narrative detailing the criteria found in either the Site Plan or the Special Use Permit standards as detailed in Chapter 30 of the Berthoud Municipal Code, as applicable. The following additional information shall be described/provided:

a. How the application meets the Design Standards found in this Chapter.
b. Concealment and Camouflage provisions.
c. If a freestanding facility is proposed, an analysis of alternatives to a freestanding facility within a one-mile radius of the facility.
d. A list of all permits or approvals obtained or anticipated to be obtained from local, state or federal agencies other than the Federal Communications Commission (FCC).
e. A statement as to whether the facility can be made available for collocation with other wireless users and if so, under what conditions.
f. Any other information deemed necessary by the Town to determine compliance with this Section.

B. *Additional Submittal Requirements.* In addition to the information required in Subsection 1 above, find the following requirements below:

1. In all zoning districts in which Towers are a use by right, applications shall be reviewed and considered for approval by the Town for conformance to this Section, any specific requirements of the zone district in which the proposed Tower is located and the Town's Wireless Communications Design Standards. In zoning districts where applications are permitted by use by special review, the application process shall follow the use by special review process and approved by the Town Board of Trustees. Such Towers shall be reviewed for conformance to this Section using the use by special review procedures set forth in Chapter 30 of the Municipal Code in conjunction with the applicable sections of this Section. Except in zone districts where Towers are a use by right, all applications for Towers shall demonstrate that other alternative design options such as Base Stations or Alternative Tower Structures are not viable options.

2. In all zoning districts and Planned Unit Developments, each application for a Base Station, Alternative Tower Structure, or Alternative Tower Structure proposed for location within Right-of-Way shall be reviewed and considered for approval by the Town for conformance to this Section and any specific requirements of the zone district in which the proposed Site is located. Except for WCFs in the Right-of-Way that meet all requirements of this Section or Eligible Facilities Requests, the Town may refer the application to Planning Commission for approval if the Town finds the proposed WCF to have a significant visual impact (e.g., proximity to historic or designated view corridors, or on significant community features) or otherwise is substantially incompatible with the structure on which the WCF will be installed, or it does not meet the clear intent of this Section.

C. *Criteria for approval.* The Community Development Director, or their designee, shall determine if the applicant has demonstrated that the proposed WCF meets the following standards, as applicable:

1. Application materials are complete.
2. The proposed land use will satisfy all applicable provisions of the zoning code, overlay districts, and subdivision regulations unless a variance is being concurrently requested.
3. The proposed land use will conform with or further the goals, policies and strategies set forth in the Town of Berthoud Comprehensive Plan.
4. The proposed land use will be adequately served with public utilities, services, and facilities (i.e., water, sewer, electric, schools, street system, fire protection, public transit, storm drainage, refuse collection, parks system, etc.) and not impose an undue burden above and beyond those of the permitted uses of the district.
5. The proposed land use will not substantially alter the basic character of the district in which it is in or impair the development or redevelopment potential of the district.
6. The proposed land use will result in efficient on- and off-site traffic circulation which will not have a significant adverse impact on the adjacent uses or result in hazardous conditions for

pedestrians or vehicles in or adjacent to the site.

7. Potential negative impacts of the proposed land use on the rest of the neighborhood or of the neighborhood on the proposed land use have been mitigated through setbacks, architecture, screening, landscaping, site arrangement or other methods. The applicant shall, at a minimum, satisfactorily address impacts including: traffic; activity levels; light; noise; odor; building type, style and scale; hours of operation; dust; and erosion control.
8. The applicant has submitted evidence that all applicable local, state and federal permits have been or will be obtained.
9. The application addresses camouflage of the facilities from public view as appropriate.
10. The Signal Interference Letter is found to be satisfactory to the Town.
11. The radio frequency report is found to be satisfactory to the Town.
12. The structures proposed are found to be satisfactory to the Town.
13. If accessory structures are proposed, the application provides information regarding accessory structures that meet the intent of the Accessory Structures standards of this Section and Chapter 30 of the Municipal Code.
14. Compliance with mitigation co-location standards and requirements established by this Section and Chapter 30 of the Municipal Code.

D. *Timeframes for Review.* All WCFs, other than those specified below shall be reviewed according to the following timeframes:

1. Review of an application to collocate a facility on an Existing Tower or Base Station: 90 days.

2. Review of an application to deploy a Small Cell Facility on a new structure: 90 days.

3. Review of an application to deploy a WCF other than a Small Cell Facility on a new structure: 150 days.

4. Review of an application for a new Tower, Base Station, or Alternative Tower Structure: 150 days.

5. Tolling the Timeframe for Review. Except for WCFs specified below in subsections ~~(F) (G)~~ (i), (ii), and (iii), the relevant review timeframe begins to run when the application is filed with the Town, and may be tolled only by mutual agreement or where the Town determines that an application is incomplete.

6. To toll the timeframe for incompleteness, the Town shall provide written notice to the applicant within thirty (30) calendar days of receipt of the application, specifically delineating all missing documents or information required in the application;

7. Upon providing the notice of incompleteness to the applicant, the timeframe for review pauses. The timeframe for review begins running again when the applicant makes a supplemental written submission in response to the Town's notice of incompleteness; and

ii. Following a supplemental submission, the Town will notify the applicant within ten (10) business days whether the supplemental submission did not provide the information identified in the original notice delineating missing information. The timeframe is tolled in the case of second or subsequent notices pursuant to the procedures identified in subparagraph b of this subsection. In the case of a second or subsequent notice of incompleteness, the Town may not specify missing documents or information that were not delineated in the original notice of incompleteness.

8. The Town may also toll the timeframe for review if Town staff determines, based on its available resources, that it cannot reasonably and adequately review the collocation application or siting application as well as a previously submitted land use application related to housing intended to provide affordable or attainable housing, renewable energy, projects of governmental entities, or any other project. This period of tolling will only occur once and will

not be longer than forty-five (45) days. The Town will notify the applicant in writing within thirty (30) days after submission of the collocation application or siting application of the duration of the period of tolling and the reason for its determination.

E. *Specific Review Procedures for Collocating Small Cell Facilities on Existing Towers or Base Stations*. Within ten (10) business days of receipt of an application for a Small Cell Facility, the Town shall provide written comments to the applicant determining completeness of the application and setting forth any modifications required to complete the application to bring the proposal into full compliance with the requirements of this subsection.

1. To toll the timeframe for incompleteness, the Town must provide written notice to the applicant within ten (10) business days of receipt of the application, specifically delineating all missing documents or information required in the application.

2. The timeframe for review resets to zero (0) when the applicant makes a supplemental written submission in response to the Town's notice of incompleteness.

3. Following a supplemental submission, the Town will notify the applicant within ten (10) business days whether the supplemental submission provided the information identified in the original notice delineating missing information. If the application remains incomplete, the timeframe is tolled pursuant to the procedures identified in subparagraphs (1) and (2) of this paragraph. In the case of a second or subsequent notice of incompleteness, the Town may not specify missing information or documents that were not delineated in the original notice of incompleteness.

F. Specific Review Procedures for Eligible Facilities Requests.

1. Application. Eligible Facilities Requests for Collocation on or modification of an Existing Tower or Base Station shall be considered a use by right subject to administrative review and determination by the Town. The Town shall prepare, and from time to time revise and make publicly available, an application form which shall be limited to the information necessary for the Town to consider whether an application for Collocation or modification is an Eligible Facilities Request. Such information may include, without limitation, whether the project:

    a. results in a Substantial Change to the physical dimensions of the Site; or

    b. violates a generally applicable law, regulation, or other rule reasonably related to public health and safety.

    The application may not require an applicant to demonstrate a need or business case for the proposed modification or Collocation.

2. Time frame for EFR review. Subject to the tolling provisions below, an application for an Eligible Facility Request shall be approved within sixty (60) days of the date of the request unless the Town determines that it does not qualify as an Eligible Facilities Request. Upon receipt of an application for an Eligible Facility Request pursuant to this subsection, the Town shall review such application to determine whether the application so qualifies.

    a. Tolling the Timeframe for EFR Review.

        i. The sixty (60) calendar day review period begins to run when the application is filed with the Town, and may be tolled only by mutual agreement or where the Town determines that an application is incomplete:

ii To toll the timeframe for incompleteness, the Town must provide written notice to the applicant within thirty (30) calendar days of receipt of the application, specifically delineating all missing documents or information required in the application;

iii. Upon notice of incompleteness to the applicant, the timeframe for review pauses. The timeframe for review begins running again when the applicant makes a supplemental written submission in response to the Town's notice of incompleteness; and

3. Following a supplemental submission, the Town will notify the applicant within ten (10) business days whether the supplemental submission did not provide the information identified in the original notice delineating missing information. The timeframe is tolled in the case of second or subsequent notices pursuant to the procedures identified in subparagraphs (i) and (ii) of this subsection. In the case of a second or subsequent notice of incompleteness, the Town may not specify missing documents or information that were not delineated in the original notice of incompleteness.

a.If the Town fails to approve or deny an Eligible Facility Request within the time frame for review (accounting for any tolling), the request shall be deemed granted; provided that this approval shall become effective only upon the Town's receipt of written notification from the applicant after the review period has expired (accounting for any tolling) indicating that the application has been deemed granted.

b. Interaction with Telecommunications Act 47 U.S.C. Section 332(c)(7). If the Town determines that the applicant's request is not an Eligible Facilities Request, the applicant shall be advised as to the relevant provisions of the Town Code that govern the process to consider the request, and whether the Town Code requires any additional information to be submitted in order for the request to be considered complete. If the applicant subsequently indicates an intent for the proposal to be considered under the relevant section of the Town Code and submits all required information, the presumptively reasonable timeframe under 47 U.S.C. Section 332(c)(7), as set forth in applicable federal and state law will begin to run from submittal of the required information under the applicable provision of the Town Code.

4. ***Decision***. Any decision to approve, approve with conditions, or deny an application for a WCF shall be in writing, supported by substantial evidence in a written record, and shall be provided to the Applicant within ten (10) days of the decision. If the approval is for a concealed WCF, the written decision shall specifically identify that the WCF is a concealed facility.

5. ***Compliance with Applicable Law***. Notwithstanding the approval of an application for collocation as described herein, all work done pursuant to WCF applications must be completed in accordance with all applicable building and safety requirements as set forth in the Town Code, and any other applicable regulations. In addition, all WCF applications shall comply with the following:

a. Comply with any permit or license issued by a local, state, or federal agency with jurisdiction of the WCF;
b. Comply with easements, covenants, conditions and/or restrictions on or applicable to the underlying real property;
c. Be maintained in good working condition and to the standards established at the time of application approval or as otherwise required by applicable law; and
d. Remain free from trash, debris, litter, graffiti, and other forms of vandalism. Any damage shall be repaired as soon as practicable, and in no instance more than ten (10) days from

the time of notification by the Town or after discovery by the owner or operator of the Site.

6. ***Compliance Report***. Upon request by the Town, the Applicant shall provide a compliance report within forty-five (45) days after installation of a WCF, demonstrating that as installed and in operation, the WCF complies with all conditions of approval, applicable Town requirements and standard regulations.

30-16-107 **Standards for Approval**. No WCF, including Related Accessory Equipment, shall be approved unless it meets the following approval criteria:

A. Visual impacts are minimized and view corridors are protected to the greatest extent feasible.

B. Unless a Tower site, or otherwise waived pursuant to this Section, the WCF utilizes Concealment Design Techniques to avoid adverse impacts on the surrounding area, by ensuring that the facility looks like something other than a Tower or Base Station;

   a. The WCF meets the applicable design standards for the type of WCF in accordance with Section V, Design Standards; and

   b. The WCF is and will be operated at all times in accordance with Section IV.

SECTION 1 GENERAL PROVISIONS

30-1-101 Title

This ordinance establishes the regulations and standards governing the use and development of land within the Town of Berthoud. Included are provisions for the annexation, subdivision, ~~and~~ zoning, and land use and development~~use~~ of land, as well as the administrative procedures governing the submission of applications, administrative and public reviews, and appeals. Also included are the Town of Berthoud's standards for site and building design, landscaping, signage, dark sky compliance, parking and public infrastructure. This Code applies to development and redevelopment and both terms are used interchangeably.

30-1-102 Short title

This ordinance shall be known and may be cited as the Town of Berthoud Development Code. Within this ordinance the Town of Berthoud Development Code shall simply be referred to as "this Code."

30-1-103 Authority

A. This Code is adopted pursuant to the authority contained in the Colorado Revised Statutes (C.R.S.). Local governments are provided broad authority to plan for and regulate the use of land within their jurisdictions, as authorized in Title 29, Article 20, et seq. and Title 31, Article 23, et seq. of the C.R.S., as amended. Additional statutory authority may also exist for specific types of development regulation.

B. Whenever a section of the Colorado Revised Statutes cited in this Code is later amended or superseded, this Code shall be deemed amended to refer to the amended section or section that most nearly corresponds to the superseded section.

30-1-104 Jurisdiction

A. This Code shall be effective throughout the Town of Berthoud's municipal boundaries. The Town of Berthoud's planning jurisdiction includes all land within the Town of Berthoud, and where applicable, the lands within three miles of the Town of Berthoud's boundaries per C.R.S. §31-12-105(e) (I). For purposes of zoning ~~and~~, subdivision, land use and development standards, this Code only applies to lands within the Town of Berthoud's municipal boundaries.

B. A copy of a map showing the boundaries of the Town of Berthoud and the area within the three-mile planning jurisdiction shall be available for public inspection in the Town of Berthoud's offices.

C. Except as specifically provided herein, this Chapter does not create rights in third parties as beneficiaries. It is intended to create an enforceable relationship between only the Town and the property owners or citizens to whom its provisions directly apply.

30-1-105 Premature and Scattered Development

Nothing in this Chapter shall be construed to limit the existing authority of the Board of Trustees to provide against development that is scattered or premature, requires an excessive expenditure of public funds, or otherwise violates the Town of Berthoud land use regulations.

30-1-106 Purpose

A. The purpose of this Code is to preserve, protect and improve the health, safety and general welfare of Berthoud residents and to:

1. Provide standards to achieve high-quality physical development and redevelopment.

2. Encourage the most appropriate uses of land in the Town.

3. Achieve the following standards:

a. Encourage redevelopment and new development to relate to the Town's historic development pattern

~~a.~~b. Create a vital, cohesive, well-designed community; and

~~b.~~c. Facilitate efficient provision of transportation, water, waste water treatment, stormwater management, schools, parks and other public requirements;

~~c.~~d. Incorporate transect development place types and character districts for guiding Berthoud's physical development. (Transect development is a multi-tiered approach to plan for the community at various scales, starting from the Town-wide macro scale down to the block-level micro scale); and

~~d.~~e. Encourage street, trail, sidewalk, and non-motorized path alignment and arrangement in relation to existing and planned streets, trail, sidewalk and non-motorized paths and ensure that the same result in safe, efficient and pleasant walking, biking and driving experiences; and

f. Create livable and connected ~~Promote~~ compact developments that are ~~,~~ well-defined, sustainable ~~neighborhoods that~~, foster a sense of community, ~~-~~enhance the Town's character and reduce dependency on vehicle traffic; and

~~e.~~g. Encourage innovative, quality site design, architecture and landscaping.

4. Maintain and enhance property values by stabilizing expectations, fostering predictability in land development, and establishing transparent processes to efficiently and equitably ~~applies~~ apply this Code to individual sites. This requires balancing economic development with community values.

    a. Provide a certain and consistent development review process with clear development and redevelopment standards.

5. Protect critical environmental resources, including agricultural lands and water, wetlands, riparian areas, view corridors, important wildlife habitats and special places of the Town of Berthoud.

6. Prevent or decrease the danger of life and property from flooding, geologic hazards and wildfire.

30-1-107 Interpretation

The provisions of this Code shall be interpreted and applied as the minimum requirements for the promotion of the public health, safety and welfare. Whenever the requirements of this Chapter are at variance with the requirements of any other lawfully adopted rules, regulations or ordinances, the more restrictive, or that imposing the higher standard, shall govern.

30-1-108 Applicability of Code

A. The provisions of the Town of Berthoud Development Code shall apply to any and all development of land within the municipal boundaries of the Town unless expressly and specifically exempted or provided otherwise in this Code. No development shall be undertaken without prior and proper approval or authorization pursuant to the terms of this Code. All development shall comply with the applicable terms, conditions, requirements, standards and procedures established in this Code.

B. Except as herein provided, no building, structure or land shall be used and no building or structure or part thereof shall be excavated, erected, constructed, reconstructed, altered, repaired, moved or structurally

altered except in conformance with the regulations herein specified for the zone district in which it is located, nor shall a yard, lot or open space be reduced in dimensions or area to an amount less than the minimum requirements set forth herein.

C. Whenever both the provisions of this Code and provisions of any other law cover the same subject matter, whichever is more restrictive shall govern.

D. This Code establishes procedural and substantive rules for obtaining the necessary approval to develop land and construct buildings and structures. Development applications will be reviewed for consistency with the Town of Berthoud Comprehensive Plan, and other Town of Berthoud master plans, policies and guidelines, and for compliance with adopted regulations.

30-1-109 Relationship to existing ordinances and resolutions

All ordinances, resolutions or motions of the Town of Berthoud Board of Trustees or parts thereof in conflict with this Code are, to the extent of such conflict, hereby superseded and repealed, provided that no such repeal shall repeal the repealer clauses of such ordinance, resolution or motion, nor revive any ordinance, resolution or motion thereby. The adoption of this Code shall not adversely affect the Town of Berthoud's right to seek remedies for any violation of previous ordinances that occurred while those ordinances were in effect.

30-1-110 Relationship to Comprehensive Plan

A. It is the intention of the Town of Berthoud that this Code implements the vision and intent of the ~~planning policies adopted in the~~ Comprehensive Plan for the Town and its extraterritorial planning area. The Comprehensive Plan is a visionary document and is not legislative; however, the vision and intent of the Comprehensive Plan should be integrated into the standards, expectations and guidelines provided in the Development Code. While this relationship is reaffirmed, it is the intent of the Town of Berthoud that neither this Code nor any amendment to it may be challenged on the basis of any alleged nonconformity with the Comprehensive Plan.

1. *Requirement for Comprehensive Plan amendment.* Where a development proposal is not in conformance with the Comprehensive Plan, an amendment to the Comprehensive Plan will be required prior to any zoning or subdivision approvals. Conformance exists when a development proposal matches the designations of the Preferred Land Use Plan.

2. *Criteria for evaluating amendment proposals.* Amendments to the Comprehensive Plan resulting from development proposals under this Code shall be evaluated according to the criteria and procedure outlined in the Comprehensive Plan.

3. When the Comprehensive Plan does not provide an amendment procedure, the amendment application submission and procedure shall follow those for a Neighborhood Master Plan, with such additional materials as shall be determined by the Town Administrator or designee.

30-1-111 Enforcement

A. Purpose. This sec~~r~~tion establishes procedures through which the Town seeks to ensure compliance with the provisions of this Code and obtain corrections for violations of this Code. This section also establishes the remedies and penalties applicable to violations of this Code.

B. Authority. The Town Board, or its designee, shall be responsible for enforcing the provisions of this Chapter. The term "Town Board" in this Section shall mean the Town Board or its designee. Any criminal enforcement shall be by the issuance of a complaint and summons to Municipal Court by a peace officer.

C. *Authorization for inspections*. By annexing into Berthoud, the property owner, successors and assigns give their consent that the Town may enter any building, structure, real property, or premises during ordinary

business hours and upon 12 hours verbal or written notice, to ensure compliance with the provisions of this Code as provided in the Berthoud Municipal Code.

D. The Town will not approve the issuance of a building permit unless the plans for the proposed use, development erection, construction, reconstruction, remodel, restoration, improvement, alteration, or change conform to the requirements of this Code.

E. Violations. It shall be unlawful to violate any provision of this Chapter and undertake any of the following activities:

1. Erecting, constructing, reconstructing, remodeling, altering, maintaining, expanding, demolishing, moving or using any building, structure, or sign; or to engage in development or alter or change the use of any real property or the improvements on such property; or to subdivide any land, in contravention of any other regulation of this Code, including terms and conditions of all approvals.

2. Land disturbing activities inconsistent with this Code including excavating, grading, cutting, clearing, bringing in fill materials, or undertaking any other land disturbance activity contrary to the provisions of this Code or without first obtaining all requisite land use approvals required by this Code or other applicable regulations. All land disturbing activities shall be consistent with the Town's stormwater quality requirements.

3. Nonconforming uses or structures inconsistent with Code. Creating, expanding, replacing, or changing a nonconforming use, structure, lot, or sign except in compliance with this Code.

4. Making lots or setbacks nonconforming. Reducing or diminishing the lot area, setbacks, or open space below the minimum required by this Code, except as may otherwise be permitted under the provisions of this Code.

5. Increasing intensity of use. Increasing the intensity of use of any land or structure, except in accordance with the procedural and substantive standards of this Code.

6. Activities inconsistent with permit. Engaging in any development, use, construction, remodeling, or other activity of any nature in any way inconsistent with the terms and conditions of any permit, approval, or other form of authorization required to engage in such activity.

7. Activities inconsistent with conditions of approval. Failure to comply with any terms, conditions, or limitations placed by the Town upon any final development plan, subdivision plat, permit, or other form of approval by the Town.

8. Agreements to convey. Making any agreement to convey or the conveyance of any lot or undivided parcel of land contrary to the provisions of the Chapter or prior to approval of a final plat by the Town. It shall be a separate violation for each lot or parcel of land sold or agreed to be sold.

9. Activities inconsistent with an order of the Town. Failure to comply with any stop work order, abatement order, or any other order issued by the Town pursuant to this Code.

F. Separate violations. Any person who violates or causes the violation of any of the provisions of this Chapter, shall be guilty of a separate offense for each and every day, or portion thereof, during which a violation is committed, permitted, or continues.

G. *Remedies and enforcement powers*. Violations of this Chapter may be enforced in the Berthoud Municipal Court or any other court with jurisdiction, by any appropriate equitable action, by abatement, by issuance of stop work orders, by injunction and/or restraining order, by revoking any permits or approvals issued, and by assessing any amounts due or to cover delinquent costs, fees, penalties and/or taxes. Any one, all or any combination of the foregoing penalties and remedies may be used to enforce this Chapter. In addition, the Town shall have the following civil remedies and powers to enforce this Code:

1. *Notice of violation and corrective action order*.

   a. *Non-emergency violations*. In the case of violations of this Code that do not constitute an emergency or require immediate attention, written notice of the nature of the violation and required corrective action to be taken may be given by the Town to the owner, occupant, applicant for any relevant permit, person in charge of construction or other work on the property, or any other person in possession of or involved in the illegal activity on the property. Notice shall be given in person, by certified U.S. Mail (return receipt requested) or by posting notice on the premises. The notice shall specify the Code provisions allegedly in violation, and shall state that the individual has a period of 30 days from the date of the receipt of the notice in which to correct the alleged violations before further enforcement action shall be taken. Failure to provide notice shall not constitute waiver of the violation by the Town.

   b. *Emergency violations*. In the case of violations of this Code that lead to safety or public concerns, or violations that will create increased problems or costs if not remedied immediately, the Town may use the enforcement powers available under this Code without prior notice, but shall attempt to give notice simultaneously with commencement of enforcement action or as soon thereafter as practicable. Notice may be provided to the property owner, agent, occupant, or to the applicant for any relevant permit. Furthermore, at the Town's discretion, the Town may proceed to abate the danger and assess the costs as a lien on the property and/or certify those sums to the Larimer or Weld County Treasurer to be collected from the violator with respect to the taxes on the subject property.

   c. *Extension of time for correction*. The Town Board may grant an extension of the time to cure an alleged violation, up to a total of 90 days as it deems appropriate.

2. *Deny/withhold approvals or permits*. The Town may deny and withhold all approvals, permits, certificates, or other authorization to use or develop any land, structure, or improvements thereon including the vacation of plats in whole or in part until the alleged violation related to such property, use, or development is corrected. This provision shall apply whether or not the current owner or applicant for the permit is responsible for the violation.

   Where a property owner, agent, or other person has a record of an outstanding violation of this Code, the Town shall be authorized to deny or withhold all permits, certificates of occupancy, or other forms of authorization for any use or development activity undertaken by such person until all outstanding violations are corrected. This provision shall apply whether or not the property for which the permit or other approval is sought is the property in violation.

   The denial or withholding of a permit by the Town may be appealed to the Board of Adjustment as provided in 30-3-108 of this Code.

3. *Revocation of permits*.

   a. *Revocation by Town Board*. The Town may revoke any development permit, certificate or other authorization, for violation of this Code.

   b. *Reconsideration of revocation*. The applicant may request a public hearing for reconsideration of the Town's revocation.

   c. *Notice of public hearing*. The public hearing on the reconsideration of revocation shall be conducted during a regular or special meeting of the Town Board, or a hearing officer appointed by the Town Board, not less than seven days, nor more than 21 days from the date the notice of the hearing is given. Notice of hearing shall be deemed given to the owner, the owner's agent or other person to whom the development permit was issued, upon deposit of said notice in the U.S. Mail, by certified mail, return receipt requested,

addressed to the last known address of said person. Additional methods of service may also be utilized to give notice of the public hearing.

d. *Findings*. Following the public hearing, the Town Board or the hearing officer shall reinstate the permit revoked unless it finds any of the following:

There is a departure from the approved plans, specifications, or conditions of approval; or

There is a violation of any provision of this Code; or

The development permit was obtained by false representation; or

The development permit was issued in error.

e. *Notice of revocation*. Written notice of the findings shall be served upon the owner, the owner's agent, applicant, or other person to whom the permit was issued by certified mail, return receipt requested, or such notice may be posted in a prominent location at the place of the violation. No work or construction or use of the property shall proceed after service of the revocation notice.

4. *Stop work order*.

a. *Issuance of stop work order*. The Town may issue a written order to stop work on any property on which there is an uncorrected violation of either a provision of this Code or a provision of a land use approval or development permit, building permit or other form of authorization. The stop work order shall specify the violation(s). Service of the order shall be given in person, by certified U.S. Mail (return receipt requested) or by posting notice on the premises. After any such order has been served, no work shall proceed on any building, other structure, or tract of land covered by such order, except to correct such violation or comply with the order. The notice shall also state any appeal and/or variance procedures available pursuant to this Code.

b. *Timing/notice*. The stop work order may be issued in conjunction with a notice of violation or subsequent to such notice. The stop work order may also specify a shorter time for correction of the violation if the Town determines a shorter time is necessary to protect the health, safety, or welfare of people or property in Berthoud. It shall be unlawful to violate the terms of a stop work order.

5. *Abatement or injunctive relief*. In addition to any other remedy, the Town~~Board~~ may initiate injunctive or abatement proceedings or other appropriate legal action in the Berthoud Municipal Court or other court of competent jurisdiction to abate, remove, or enjoin such violation and to recover damages, costs, and reasonable attorney's fees incurred in the abatement and removal of such violation.

6. *Persons responsible*. The owner, tenant or occupant of any building or land or part thereof, may be held responsible for the violation and suffer the penalties and be subject to the remedies provided herein.

7. *Remedies cumulative*. The remedies provided for violations of this Code, whether civil or criminal, shall be cumulative and in addition to any other remedy provided by law or equity, and may be exercised in any order. Each day or portion thereof is considered a separate violation under this Chapter.

8. *Continuation of prior enforcement actions*. Nothing in this Code shall prohibit the continuation of previous enforcement actions undertaken by the Town pursuant to previous regulations.

9. *Appeals of enforcement actions*. Appeals of any order, requirement, decision, or determination made by an administrative official in the enforcement of this Chapter shall be made to the Board of Adjustment in accordance with this Code.

10. *Liability of Town of Berthoud*. This Code shall not be interpreted as establishing standards nor may it be construed to establish a basis to hold the Town responsible for any damages to persons or property by reason of the inspection or reinspection, or failure to inspect or reinspect, or by reason of issuing a building permit, or by reason of pursuing or failing to pursue an action for injunctive relief.

11. *Violations*. Violations of this Code may be enforced in the Berthoud Municipal Court or another court of competent jurisdiction, by any appropriate legal or equitable action, by abatement, by issuance of stop work orders, by injunction or restraining order, by revoking any permits or approvals issued, and by assessing any amounts due or delinquent fines. Any one or any combination of the foregoing penalties and remedies may be used to enforce this Code.

12. *Penalty*. Failure to comply with all of the provisions of this Code shall be unlawful and upon conviction is punishable by a fine of up to $2,650.00 or imprisonment for a period not more than one year, or both. Each day that such violation continues to exist shall be considered a separate offense.

13. *Costs and attorney's fees for enforcement for abatement incurred by the Town*. Costs and attorney's fees associated with said abatement shall be charged to the owner of the property where the violation occurred and any other person responsible for the violation as defined in this Codehapter. The cost of abating a violation of this Codehapter shall include all direct and indirect costs of such abatement, plus costs and compound interest at the rate of one percent per month. Notice of the bill for abatement of the violation shall be mailed to the last known address of said property owner by certified mail, and is payable within 30 calendar days from the receipt thereof. If all costs are not paid within 30 days of the notice, such costs may be liened against the property and/or certified to the Larimer or Weld County Treasurer and collected along with the taxes on the property.

30-1-112 Vested Rights

A. Purpose. The purpose of this section nis to implement the Colorado Vested Property Rights Statute.

B. Applicability. A vested right is established under C.R.S. 24-68-101 et. seq., as amended, upon approval of a site-specific development plan by the Town Trustees, or their designee. Site-specific development plans are defined to be final plats for subdivisions and uses by use by special review permits.

C. AprpovalApproval. A vested right is automatically created upon the approval or conditional approval of a site-specific development plan, following notice and a public hearing. Vesting occurs on the date of the hearing when approval or conditional approval is granted. Failure to abide by the terms and conditions of approval will result in a forfeiture of vested rights. inclusive of recording the plat and permit.

D. Notice. The Director must publish a notice of the approval of the site-specific development plan in a newspaper of general circulation no later than 14 days after approval.

E. Term. A vested right created by approval of a site-specific development plan remains in effect for three years from the date of the Town Trustees' approval, unless the Trustees determine, as part of the site-specific development plan approval, that a longer period is warranted in light of relevant circumstances. Those circumstances may include, but are not limited to, the size and phasing of the development, economic cycles, and market conditions.

F. Modificationiton of the Plan. The Town- Trustees'' approval of any modification to a site-specific development plan does not extend the term of a vested right unless expressly authorized by the Trustees.

G. Exceptions. A vested right does not preclude any zoning or land use action taken by the Town under the following circumstances:

   a. With the consent of the affected property owner; or

b. Upon the discovery of natural or manmade hazards or in the immediate vicinity of the property, which hazards could not reasonably have been discovered at the time of the site-specific development plan approval, and which hazards, if uncorrected, would pose a serious threat to the public~~'s~~ health~~y~~, safety, and welfare; or

c. To the extent that the affected property owner receives just compensation for all costs, expenses, and liabilities incurred by the property owner after approval by the Town. These include, but are not limited to, costs incurred in preparing the site for development consistent with the site-specific development plan; all fees paid in consideration of financing; and all architectural, planning, marketing, legal, and other ~~consultant's~~consultants fees, together with interest at the legal rate until paid. Just compensation does not include any diminution in the value of the property caused by such action.

~~A.~~ A vested right does not preclude the application of regulations that are general in nature and applicable to all property subject to land use regulations by the Town, including but not limited to, building, plumbing, electrical, and mechanical codes.

~~Purpose. This Section specifies procedures necessary to implement Article 68 of Title 24, C.R.S., as amended, which establishes a vested property right to undertake and complete development of real property under the terms and conditions of an approved site specific development plan. No vested rights shall be created within the Town except through a site specific development plan. A site specific development plan shall be deemed approved upon the effective date of the Town action granting final approval of the plan. For purposes of this code, a site specific development plan shall be limited to the following: Final Subdivision Plat, Minor Subdivision Plat, Conveyance Plat, Site Plan, Final Development Plan for a Planned Unit Development and/or a Development Agreement that creates a vested property right and is adopted as a legislative act of the Town. Zoning and annexation shall not result in the creation of vested property rights, other than as accompanied by the approval of a site specific development plan. The vested property right shall attach to and run with the applicable property and shall confer upon the landowner the right to undertake and complete the development and use of said property under the terms and conditions of the site specific development plan including any amendments thereto.~~

~~A. General Provisions.~~

~~1. *Request for site specific development plan approval.* Landowners wishing the creation of vested property rights pursuant to Article 68 of Title 24, C.R.S., as amended, shall request that approval in writing at least 30 days prior to the date that the approval is to be considered. Failure of the landowner to request such an approval renders the plan not a "site specific development plan," and no vested property rights shall be deemed to have been created.~~

~~2. *Notice and hearing*. No site specific development plan shall be approved until notice of such hearing has been published by the Town at least five days before the hearing, and after a public hearing called for that purpose. Such notice may, at the Town's option, be combined with any other required notice. At such hearing, interested persons shall have an opportunity to be heard.~~

~~3. *Approval, conditional approval, effective date, amendments, referendum, and review.*~~

~~a. The Town Board may approve a site specific development plan with terms and conditions as may reasonably be necessary to protect the public health, safety and welfare. Such conditional approval will result in a vested property right, although failure to abide by all of such terms and conditions shall result in a forfeiture of the vested property rights.~~

~~b. In the event amendments to a site specific development plan are approved, the effective date of such amendments, for purposes of duration of a vested property right, shall be the date of the approval of the original site specific development plan, unless the Town Board specifically finds to the contrary and incorporates such findings in its approval of the amendment.~~

~~c. The approval of vested property rights shall be subject to all rights of referendum and judicial review.~~

d. The approval of a vested property right by the Town voids any and all pre-existing vested property rights on the same real property.

4. *Notice of approval.*

a. Each plat or site plan constituting a site specific development plan by this Article shall contain the following notice: "This plan constitutes a site specific development plan as defined in Article 68 of Title 24, C.R.S., as amended, and Chapter 30 of the Berthoud Development Code available at the Berthoud Town Hall, 328 Massachusetts Avenue, Berthoud, Colorado 80513." Failure to contain this statement shall invalidate the creation of the vested property right.

b. The developer shall publish a notice describing generally the type and intensity of the approved use, the specific parcel or parcels of property affected, the terms and conditions of any approval, and a statement that a vested property right has been created. The notice shall be published once, not more than 14 days after approval of the site specific development plan in the newspaper of general circulation in Berthoud chosen by the Town for publishing public notices. Failure of the developer to publish the notice constitutes a waiver of the vested right by the developer.

5. *Duration of vested property right*. A property right which has been vested as provided herein shall, upon compliance with the terms and conditions of the approval thereof, remain vested for a period of three years; except that the Town Board may, in its sole discretion, grant vested property rights for a longer period within a Development Agreement when warranted in light of all relevant circumstances, including but not limited to, the size and phasing of the development, economic cycles and market conditions. The vesting period shall not be extended by any amendments to a site specific development plan unless expressly authorized by the Town Board in an ordinance approving such amendments. For purposes of this code, completion of a development phase shall include installation of all engineered improvements (water, wastewater, streets, curb, gutter, sidewalks, fire hydrants, and storm drainage improvements) in accordance with the Town rules and regulations.

6. *Extensions*. A vested property right may be extended for one year by the Town Board. The property owner must request an extension in writing not later than 30 days prior to the date of expiration of the vested right. Prior to the expiration of the original three year timeframe or the one year extension identified above (four years total), an applicant may formally request an additional extension if substantial progress has been made on installation of public improvements. In considering whether or not to grant an extension, the Town Board shall apply the following criteria:

a. That there is no conflict with the Town Code, or that any conflict with the code can be corrected by an amendment to the plan, which shall be presented with the request for extension;

b. That the applicant has demonstrated that the plan continues to be compatible with adjacent properties and the surrounding areas, or that compatibility may be established by an amendment to the plan, which shall be presented with the request for extension; and

c. That the applicant has demonstrated that the plan is consistent with the Town's Comprehensive Plan.

7. *Other provisions unaffected*. Approval of a site specific development plan shall not constitute an exemption or waiver of any other provisions or requirements of this Code or the Town pertaining to the development or use of property, adopted or applicable before or after the approval of the site specific development plan.

8. *Payment of costs*. In addition to any and all other fees and charges imposed by this Code, the applicant for approval of a site specific development plan shall pay all costs incurred by the Town related to such application including, but not limited to, publication of notices, public hearing costs, county recording fees and third-party review costs.

9. *Limitations*. This Section is enacted pursuant to the provisions of Article 68 of Title 24, C.R.S., as amended. In the event of the repeal of said Article or a judicial determination that said Article is invalid or unconstitutional, this Section shall be deemed to be repealed, and the provisions hereof no longer effective.

10. *Disclosure of previously granted vested property rights and hazards*.

a. Any petition for annexation to the Town shall describe all vested property rights approved by any county or municipal government in effect at the time of the petition, if any, and be accompanied by all site specific development plans approved by any local government. Failure to so identify any previously approved vested property right and provide all approved site specific development plans shall constitute a waiver of the vested rights created by any other local government upon annexation to the Town unless specifically provided otherwise in the ordinance of annexation adopted by the Town.

b. The applicant shall be required to include with any plan submitted for approval as a site specific development plan notice of any natural or manmade hazards on or in the immediate vicinity of the subject property which are known to the applicant or could reasonably be discovered at the time of submission of the plan. Should a hazard on, or in the immediate vicinity of, the property be discovered subsequent to the approval of a site specific development plan which would impose a serious threat to the public health, safety and welfare and is not corrected by the applicant, the vested property right created by such site specific development plan shall be forfeited by the applicant.

11. *Development agreement*. Nothing herein shall be construed to limit the authority of the Town and a landowner to enter into a Development Agreement vesting property rights in the landowner. Such agreement shall be construed in accordance with the terms and conditions of said agreement and not be limited or expanded by the provisions of this Code.

30-1-113 Nonconformities

A. Purpose. This section governs nonconformities which are uses, buildings, structures, lots, signs and site features (such as landscaping), that were legally established prior to the adoption of this Code and no longer comply with one or more requirements of this Code. The provisions of this section are intended to recognize the interests of property owners in continuing to use nonconformities in a productive manner, while encouraging and establishing processes to bring as many aspects of the nonconformity into conformance with this Code and master plans affecting the nonconformity.

B. Determination of Nonconforming Status. The Town Administrator or their designee has the authority to determine whether a use, building, structure, lot or site feature is nonconforming. A property owner shall make a written request for the designation of a nonconformity status. The burden of proof for establishing the existence of a nonconformity shall be the responsibility of the applicant with the approval of the property owner. The Town Administrator's or designee's determination may be appealed pursuant to the Board of Adjustment Section of this Chapter.

~~A.~~C. Regulations applicable to all Nonconformities.

1. Any ~~building or structure~~nonconformity for which a building permit has been issued prior to the date of enactment of this Section may be completed and used in accordance with the plans, specifications, and permits on which said building permit was granted, if construction is commenced within two months after the issuance of said permit and diligently pursued to completion.

2. Ordinary repairs and maintenance of a nonconforming building or structure shall not be deemed an expansion of such nonconforming building or structure and shall be permitted.

3. No nonconformitying use or building shall be altered, extended, or restored so as to displace any conforming use.

4. A nonconformityng building which has been damaged by fire, flood, or other calamity causes may be restored to its original condition, provided that such work is commenced within six months of such calamity.

5. A nonconformity which has been damaged outside of a calamity may not be replaced to replicate the nonconformity.

4.6. When a nonconformity has been discontinued for a period greater than six months, such nonconformity shall not thereafter be reestablished and any future use shall be made in conformance with the provisions of this Code.

7. Any nonconforming building or portion thereof declared unsafe by the Building Official which may be replaced, strengthened or restored to a safe condition by order of the Building Official.

81. If the nonconformity was approved through special review or other use- or site-specific permit process under a prior Land Use Code, that approval carries forward to this Code.

9. If the nonconformity was nonconforming under the previous Land Use Code and is conforming in this Code, it will lose its nonconforming status and be considered conforming.

10. If the nonconformity was nonconforming under the previous Land Use Code and requires special approval pursuant to this Code, it will remain nonconforming unless the property owner seeks to change the nonconformity, in which case the applicant will be required to either submit an application for approval of the nonconformity or cause the nonconformity to become conforming.

30-1-114 Construction Rules and Regulations

A. *Applicability and Purpose.* This section shall apply to all new development or re-development construction projects that include work visible to the public within the Town except for the renovation of an individual single-family home.

To ensure all Construction Activity conducted within the Town is done in the most sensitive manner possible and to minimize impacts, the following Construction Regulations shall be enforced during the construction period of all development projects unless otherwise approved by the Town. This document shall be known as the "Construction Rules and Regulations" and may be referred to herein as the "Regulations." The Town has the power to amend these Regulations from time to time, following notice requirements outlined in this Chapter. Each Owner shall ensure that all Construction Activity on their Construction Site shall be performed in accordance with the following requirements. Anyone found in violation of these Regulations shall be subject to citation, fines and other enforcement actions as allowed by the Town Municipal Code and Development Code.

1. Construction Activity is defined as any building, infrastructure, and/or construction related activity conducted outdoors at any time. Interior construction activity conducted entirely indoors, such as painting and some finishing work, is exempt from the requirements of this ordinance.

2. Large Construction Vehicle is defined as vehicles with more than two axels engaged in activity related to Construction Activity.

B. *Drainage, Erosion Control, and Vegetation Management.* The Town requires the owner or operator of a construction site to receive permit certification issued by the State of Colorado for any proposed construction activity that falls under the category of a General Construction Stormwater Permit as defined by the Colorado Department of Public Health and Environment (CDPHE). In addition, the town must review approve and permit a site-specific Stormwater Management Plan (SWMP) submitted by the owner of the construction stie prior to the Town approving the construction activity. The owner of the construction site is responsible for preparing and submitting the SWMP to the Town. In no event shall silt, mud, debris, or other stormwater related issues be allowed to accumulate on lots, roads, Rights-of-Way (ROW), or other public areas for more than 72 hours.

1. In addition to implementing, monitoring, and updating the SWMP throughout construction, the Owner shall not allow standing water exceeding an area of 25 square feet to remain in place longer than 72 hours. Temporary pumps and associated piping may be used to remove areas of standing water and shall conform to best practices identified in the SWMP.

2. All open space areas in each phase of a development shall be seeded or landscaped pursuant to the approved SWMP, erosion control plan and approved Landscape Plans prior to the time when 51 percent of the building permits are issued in said phase. Delays associated with weather will not be granted.

3. Any material storage on site shall be done in such a way that proper vegetation management can continue unimpeded.

C. *Construction Equipment and Material Storage.* Each Owner or Owner's Representatives and their contractors shall ensure all construction material is stored in a designated materials storage area. Such storage area shall only be located on lots with approved permits and shall be located to minimize the visual impact from adjacent properties and roadways. Construction materials shall not be stored in the Right-of-way for more than 72 hours without prior approval from the Town. Any materials stored within Right-of-way shall not impede pedestrian and/or vehicular traffic and shall be marked with high visibility cones or other signage.

D. *Debris and Trash Removal.* Owners, Owner's Representatives, and their contractors shall be responsible for assuring:

1. At the end of each day, all trash and debris on the Construction Site is cleaned up and stored in proper containers and not permitted to be blown about the Site or adjacent property, and

2. At least once a week, all trash and debris are removed from the Construction Site to a proper dumpsite located off the Property.

3. All trash and debris containers shall be located on the Construction site, off the road right of way, and not on sidewalks, or adjacent property except for in pre-approved storage areas. Any trash and debris containers shall be set in such a way that they do not create visual barriers for traffic and pedestrians. Determination of such barriers shall be at the sole discretion of the Town.

E. *Construction Hours and Noise.* Construction Activities shall be limited to the following hours of operation:

1. Monday through Friday: 7:00 a.m.; 7:00 p.m. or Sundown, whichever occurs earlier

2. Saturday: 8:00 a.m. — 7:00 p.m. or Sundown, whichever occurs earlier

3. Sunday: 9:00 a.m. — 4:30 p.m.;

4. Entrance to Construction Sites for set-up only is permitted one half hour prior to hours of operation. (e.g. M—F 6:30 a.m.) During the half-hour set-up, the operation of heavy equipment, compressors, impact tools, or any activity that creates loud noise shall be prohibited. At all times each Owner shall use reasonable efforts to minimize external noise resulting from Construction Activity. No loud music shall be permitted.

F. *Large Construction Vehicle Routes.* Delivery and haul routes for all vehicles with more than two axels shall avoid all local or neighborhood roads outside of the construction site. Large Construction Vehicles as defined herein must obey all posted speed limits and traffic regulations within the Town.

G. *Prohibited General Practices.* All Owners will be responsible for the conduct and behavior of their Owner's Representatives in the Town. The following practices are prohibited within the Town and will result in an automatic fine:

1. Changing oil on any vehicle or equipment on the Construction Site without spill protection containment and safeguards. This activity shall take place in an approved containment area;

2. Allowing concrete suppliers and contractors to clean their equipment on any property within the Town of Berthoud lot, roadway, right-of-way, ditch, easement, or other property without prior approval;

3. Removing rocks, plant material, topsoil, or similar items from the property of others within Town;

4. Using disposal methods or units other than those approved by the Town;

5. Careless disposition of cigarettes and other flammable materials;

6. Disturbing or removal of any native plant materials not identified for removal on the approved construction plans;

7. Disruptive activity including, but not limited to, public drinking, public nuisances, and disturbing the peace;

8. Working before or after the scheduled construction hours without prior permission;

9. Driving haul trucks with uncovered loads in the Town.

10. Storing building or landscape materials within the right-of-way, even prior to Town acceptance, for more than 72 hours.

H. *Roadway Maintenance.* Owners and their contractors and sub-contractors shall keep all Town roads and road rights-of-way free and clear of all materials, rubbish, and debris resulting from Owner's Construction Activity and shall repair and revegetate any damage to roads, road rights-of way, landscaping, and other streetscape improvements within the Town caused by Construction Vehicles used in connection with

Construction Activity by Owner's or Owner's Representative. No road cuts, deletions, or additions shall be made without a permit from the Town Engineer, or their designee. Contractors must keep the Site driveway and all adjacent roads clean from dust, dirt, mud, and debris at all times. If a contractor fails to keep roads clean and if the Town arranges for cleaning, the cost of cleaning will be billed to the Owner, in care of the contractor, at a rate then set by the Town.

I. *Sanitary Facilities.* On-Site, enclosed, chemical toilets must be available at all times when Construction Activity is taking place on a Construction Site. Chemical toilets shall be located to minimize any adverse impacts on adjacent lots. In no instance shall chemical toilets be placed within any road right-of-way or on the road.

J. *Signage.* At least one temporary site sign, a minimum of 12 square feet and a maximum of 32 square feet in size, shall be located within the Site boundary and shall be easily visible and readable from the adjacent roadway or entry to the Site. The sign shall be either attached to construction fencing in a secure method; or posted separately with stable sign supports. Sign posting shall be done in a manner to withstand weather including wind. The sign is temporary and shall be removed following construction completion. The sign must contain the information shown below.

1. Project logo and/or name.
2. Work site address.
3. Developer/Owner name and phone number.
4. Contractor name and phone number.
5. Builder name and phone number.
6. CDPHE Number and phone number for CDPHE Inspector
7. Work Site Rules.

30-1-115 Effective date

The provisions of this Code were originally adopted on March 27, 2012 and repealed and replaced in their entirety on November 11, 2025. Subsequent revisions to this Code are noted at the beginning of each Chapter with the relevant Ordinance number and effective date of change. Development plans approved under previous regulations that received vested property rights through a site specific development plan shall be valid for the duration of that vested property right provided that all terms and conditions of the site specific development plan are followed. Existing legal uses that may become nonconforming by adoption of this Code shall become legal nonconforming uses subject to the nonconformity provisions of this Chapter.

30-1-116 Application fees

Application fees for all land use applications shall be paid according to the Town of Berthoud fee schedule. The fee schedule may be revised by Board resolution and is available from the Town Clerk.

30-1-117 Development review deposit and reimbursement of Town costs

Fees sufficient to cover the costs of administration, inspection, publication of notice and similar matters will be charged to applicants for all permits and land use applications provided herein. In addition to the standard fees, the applicant and/or the owner of the property which is the subject of the application shall be required to pay any actual costs and fees incurred by the Town for review of the application by consultants, including but not limited to engineering, surveying, legal and planning plus actual costs for Town staff administrative costs and supplies incurred by the Town through the warranty period expiration for development and through the issuance of certificates of occupancy for any building. The Town may require a deposit from applicants to offset the Town's

costs for review prior to consideration of any application submittal pursuant to this Code. Subsequent deposits may be required when the initial deposits are ~~8~~50 percent depleted. These deposits may exceed the total amount of fees collected using the standard schedule of fees. The Town shall not continue processing of any application for which the applicant or the property owner has not deposited the funds to cover the Town's cost of review.

Any funds deposited in excess of the standard fees remaining after paying the actual costs incurred by the Town shall be refunded to the owner or applicant as appropriate. The Town may certify to the County Treasurer any amount due pursuant to this paragraph as a lien on the property for which the application is submitted to be due and payable with the real estate taxes for the Town if the applicant or the property owner does not pay such amount within 30 days of written request by the Town.

30-1-118 Severability

If any part, section, subsection, sentence, clause or phrase of this Code is for any reason held to be invalid, such invalidity shall not affect the validity of the remaining sections of the Code.

30-1-119 Computation of time

A. In computing a period of days, the first day and the last day are included.

B. If the last day of any period is a Saturday, Sunday, or legal holiday, the period is extended to include the next day, which is not a Saturday, Sunday, or legal holiday.

C. If a number of months is to be computed by counting the months from a particular day, the period ends on the same numerical day in the concluding month as the day of the month from which the computation is begun, unless there are not that many days in the concluding month, in which case the period ends on the last day of that month.

30-1-120 Miscellaneous

A. As used in this Code, words used in the singular include the plural and words used in the plural include the singular.

B. The words "must," "shall" and "will" are mandatory; "may," "can," "should" and "might" are permissive.

C. The word "lot" shall include the words "building site", "site", "plot" or "tract".

D. A "building" or "structure" includes any part thereof.

E. Words used in the present tense include the future tense.

30-1-121 Definitions

The words and phrases used in this Code shall have the meanings defined below unless otherwise specifically provided or unless clearly required by the context. Questions of definition or wording usage shall be interpreted by the Town Administrator based on the context of their usage and the intention of the section of this Code in which they occur.

Access drive means a street or right-of-way providing ingress and egress to properties adjacent to a regional thoroughfare, arterial street, collector street, or local street.

Accessory means a use, activity, building or structure, or part of a building or structure that is subordinate and incidental to the principal ~~main~~ activity or building or structure on the site.

Accessory building or structure means a subordinate building or structure detached from and ~~but~~ located on the same lot as a principal building or structure. The use of an accessory building or structure must support the occupants ~~must be identical and~~ and be accessory to the use of the principal building or structure and shall be under the same ownership in all respects. Accessory building or structures include but are not limited to storage sheds, detached garages, and gazebos.

Accessory dwelling unit means a residential dwelling unit located on the same lot as a single-family dwelling unit, either within the same building as the single-family dwelling unit or in a detached building, that provides complete independent living facilities, including but not limited to permanent facilities for sleeping, eating, cooking, and sanitation for one or more persons. Mobile homes and recreational vehicles shall not be included within the definition of the term Accessory Dwelling Unit. Accessory dwelling units shall be developed in accordance with the standards set forth in the Accessory Dwelling Unit section of this code and only in those zoning districts where the use is listed as a use by right. Also referred to as a 'Guest House' or 'Mother-in-Law Suite'.

Accessory use means a use of land or building or structure incidental to and subordinate to the principal use of the land or building or structure.

Adjacent means meeting or touching at some point, or separated from a lot or parcel by one of the following: a street, alley, or other right-of-way, lake, stream, or open space.

Adjacent property owner means an owner of record of any estate, right or interest in real property abutting the subject property.

Affordable housing development ~~*or project*~~ means a development ~~or project~~ in which: (1) at least 75 percent of the gross acreage to be developed under the plan is to be developed as residential dwelling units or mobile home park spaces; (2) at least ten percent of said dwelling units or spaces (the "affordable housing units") are to be available for rent or purchase on the terms described in the definitions of affordable housing unit for rent or affordable housing unit for sale (as applicable); (3) the construction of the dwelling units or spaces is to occur as part of the initial phase of the project and (i) prior to the construction of the market rate units or (ii) on a proportional basis, according to the same ratio as the number of affordable units bears to the number of the market rate units; and (4) the units will be required by binding legal instrument acceptable to the Town and duly recorded with that County's Clerk and Recorder, to be occupied by and affordable to low-income households for at least 20 years.

Affordable housing unit for rent means a dwelling unit which is available for rent on terms that would be affordable to households earning 80 percent or less of the median income of that County's residents, as adjusted for family size, and paying less than 30 percent of their gross income for housing, including rent and utilities. The unit must be occupied by and be affordable to such low-income household(s) for a period of at least 20 years.

Affordable housing unit for sale means a dwelling unit which is available for purchase on terms that would be

affordable to households earning 80 percent or less of the median income of residents, as adjusted for family size and paying less than 38 percent of their gross income for housing, including principal, interest, taxes, insurance, utilities and homeowners' association fees. The unit must be occupied by and affordable to such low-income household(s) for a period of at least 20 years or more.

Agricultural activity means farming, including plowing, tillage, cropping, seeding, cultivating or harvesting for the production of food and fiber products; horticulture, the grazing or raising of livestock (except in feedlots); aquaculture; sod production; orchards; Christmas tree plantations; nurseries; and the cultivation of products as part of a recognized commercial enterprise. Agricultural activity shall not include the cultivation of marijuana.

Agricultural land means land that is being used for agricultural activities.

Alley means a public or private minor or secondary way which is used primarily for vehicular service access to the back or side of properties that otherwise abut a street, described in the Design Standards section of this Chapter.

Alteration means any change, addition or modification in construction, occupancy or use of a building or structure.

Alternative power generation facilities means any use of land in which alternative energies are produced. Alternative energies are those energy sources that are an alternative to fossil fuels, including but not limited to: solar, wind, biofuel, and hydrogen.

Amphitheater, outdoor means an outdoor space with tiers of seats for spectators at events.

Amusement center means an establishment providing primarily enclosed recreation activities including, but not limited to bowling, roller skating or ice skating, billiards, swimming pools, motion picture theaters, and related amusements. Accessory uses may include the preparation, serving and sale of food and/or sale or rental of equipment related to the uses.

Amusement park means an outdoor enterprise whose main purpose is to provide the general public with entertaining activity, where tickets are sold or fees collected at the activity. Commercial amusements include miniature golf courses, outdoor arcades, Ferris wheels, children's rides, roller coasters, skateboard parks, go-cart tracks, water parks, and similar uses.

Animal boarding means the operation of an establishment in which domesticated animals other than household pets are housed, groomed, ~~bred,~~ boarded, trained, or sold. This term shall not include the operation of a kennel.

Animals, domestic means common household pets, such as dogs and cats, kept for amusement, companionship, decoration or interest.

Animal, exotic means all animals raised or boarded that are not commonly classified as household pets or livestock, but are wild in nature and may have the ability to inflict bodily harm on humans, including snakes in excess of four feet in length.

Animals, farm means animals commonly raised or kept in an agricultural, rather than urban, environment including but not limited to, chickens, pigs, sheep, goats, horses, cattle, llamas, emus, ostriches, donkeys, and mules.

Animals, food means fish, fowl, cattle, swine, sheep, and others raised for the purpose of food consumption.

Animal, household pet means any animal that has been bred or raised to live in or about the habitation of humans and is dependent on people for food and shelter, not including animals defined as livestock, exotic animals, or animals capable of inflicting substantial physical harm to humans. Includes dogs, domestic cats, canaries, parrots,

pygmy goats, hamsters, ferrets, potbellied pigs, guinea pigs and similar rodents, fish, reptiles, rabbits, and such other species as would normally be sold at a pet shop.

Animals, livestock means cows, horses, swine, goats, donkeys, mules, sheep, or chickens.

Animals, wild means animals, such as wolves, tigers, lions, and snakes that are not normally a domestic animal or farm animal and would ordinarily be confined in a zoo or found in the wild.

Annexation means the act of attaching, adding, joining, or uniting a parcel of land to the legal entity known as the Town of Berthoud.

Appeal means a request by an applicant to the Board of Adjustment or Town Board for a review of an administrative interpretation of any provision of this Chapter or a request for a variance.

Appliance sales and service means a retail establishment for the sale and service of appliances including portable devices or instruments used for domestic functions such as vacuum cleaners, kitchen appliances, radios, ovens/ranges, dishwashers, washers, driers, refrigerators, freezers, for example.

Applicant means the owner of land; the owner's authorized representative, or the optionee of the land, as well as mineral owners and lessees; or the Developer applying for an approval by the Town pursuant to this Chapter.

Appurtenances mean the visible, functional, or ornamental objects accessory to and part of a building.

Aquifer recharge area means an area where water is absorbed into a natural aquifer adding to the zone of saturation.

Arcade means a series of arches supported on piers or columns.

Area light means a light that produces over 2,050 lumens. Area lights include, but are not limited to, street lights, parking lot lights, and yard lights.

Area of lot means the total horizontal area within the lot line boundaries of a lot.

Area of special flood hazard means the area covered by the floodwaters of the base flood, and are typically delineated on National Flood Insurance Program (NFIP) maps.

Automatic timing device means a device that automatically controls the operation of a light fixture or fixtures, circuit or circuits. Photocells and light and or motion sensors should be considered automatic-timing devices

Automotive repair, (major) means an establishment primarily engaged in the repair or maintenance of commercial and heavy truck motor vehicles, trailers and similar large mechanical equipment, including paint, body and fender and major engine and engine part overhaul, provided it is conducted within a completely enclosed building. Such use shall not include the sale of fuel, gasoline or petroleum products.

Automotive repair, (minor) means an establishment primarily engaged in the repair or maintenance of passenger and light truck motor vehicles, trailers and similar mechanical equipment, including brake, muffler, upholstery work, tire repair and change, lubrication, tune ups and transmission work, car washing as an accessory use or component of other service, detailing, polishing or the like, provided it is conducted within a completely enclosed building. Such use shall not include the sale of fuel, gasoline or petroleum products.

Average footcandle means the level of light measured at an average point of illumination between the brightest and darkest areas. The measurement can be made at the ground surface or at four to five feet above the ground.

Awning means a fixed or movable roof-like cover of canvas or other material extending in front of a doorway or window, or over a deck, to provide protection from the sun or rain.

Banks and financial institutions are open to the public and engaged in deposit banking, and that performs closely related functions such as making loans, investments, and fiduciary activities with or without drive through windows and/or an attached or stand-alone banking kiosk (Automated Teller Machine (ATM)).

Bar or *tavern* means an establishment providing or dispensing fermented malt beverages, and/or malt, vinous or spirituous liquors and in which the sale of food products such as sandwiches or light snacks is secondary.

Base flood means the flood having a one percent chance of being equaled or exceeded in any given year, also known as the 100-year flood, and is a standard used by the National Flood Insurance Program (NFIP).

Beacon, revolving means a rotating or blinking source of light or electronic simulation of a revolving source of light.

Bed and breakfast means an establishment operated in a principal dwelling or portion thereof, which provides temporary accommodations to overnight guests for a fee and which is occupied by the operator of such establishment. A bed and breakfast may provide accommodation to individuals or multiple separate parties concurrently on both a reservation or a walk-in basis. The "party" as used in this definition shall mean one or more persons who stay at a bed and breakfast as a single group pursuant to a single reservation and payment. The maximum number of guests allowed in a Bed and Breakfast shall be twelve (12).

Bedroom means a fully enclosed portion of a building, designed or intended to be used for sleeping purposes and meets the definition found in the Town's Building Code.

Berm means an earthen barrier of compacted soils preventing the passage of liquid materials, or providing screening from adjacent uses.

Bicycle parking, enclosed shall mean bicycle storage in lockers, a room, or other space within a parking structure or other building, including a shed or carport. All types of enclosed bicycle storage must be easily accessible to entrances and walkways, secure, lighted and protected from the weather. Each storage space shall provide a minimum of six square feet in area. The storage space shall not impede fire exits or be located so that parked bicycles interfere with public access.

Bicycle parking, fixed shall mean bicycle parking that allows the bicycle frame and both wheels to be securely locked to the parking structure. The structure shall be of permanent construction such as heavy gauge tubular steel with angle bars permanently attached to the pavement foundation. Fixed bicycle parking facilities shall be at least two feet in width and five and one-half feet in length, with additional back-out or maneuvering space of at least five feet.

Bikeway means a path designed for use by bicyclists, which may be used by pedestrians.

Bike lane means a dedicated lane of a street intended for use by bicycles.

Billboard means a sign advertising products not made, sold, used, or served on the premise displaying the sign.

Blank wall means an exterior building wall with no openings and a single material and uniform texture on a single wall plane.

Block means a unit of land, or a group of lots, bounded by streets or by a combination of streets and public lands, or other rights-of-way other than an alley, waterways, or any barrier to the continuity of development, or

land which is designated as a block on any recorded subdivision tract.

Board means the governing body of the Town of Berthoud; also known as the Town of Berthoud Board of Trustees.

Board of Adjustment means the Town of Berthoud Planning Commission acting as the Board of Adjustment.

Boarding and rooming house means a building or portion of which is used to accommodate, for compensation, four or fewer boarders or roomers, not including members of the occupant's immediate family who might be occupying such building. The word compensation shall include compensation in money, services or other things of value.

Bollard means a pole used to protect a building from impact or to close a road or path to vehicles above a certain width.

Building means any permanent or temporary structure built for the shelter or enclosure of persons, animals, chattels, or property of any kind, which is governed by the following characteristics:

a. Is permanently affixed to the land, or
b. Has one or more floors and a roof.

Building code(s) means the set of standards that must be followed in the construction and remodeling of buildings and structures.

Building envelope means the two dimensional (horizontal) space within which a building or structure is permitted to be built on a lot. The size of a building envelope is typically defined by setbacks, easements, and floor-area ratio.

Building frontage means the horizontal, linear dimension of that side of a building, which abuts a street, a parking area, a mall, or other circulation area open to the public and has either a main window display or a public entrance to the building.

Building height is measured from the average of finished grade at the center of all walls of the building to the ~~topof~~top of the parapet or highest roof beam (whichever is higher) on a flat or shed roof, to the top of the parapet or deck level (whichever is higher) of a mansard roof, or the average distance between the highest ridge and its eave of a gable, hip, or gambrel roof.

Building Official means a person or persons charged with implementing and enforcing provisions of the Building Code.

Bulb means the source of electric light — to be distinguished from the whole assembly (See Luminaire).

Bus shelters means a small, roofed structure, usually having three walls and located near a street. The structure is designed primarily for the protection and convenience of bus passengers who are waiting to board transit.

Business means any lawful commercial endeavor to engage in the manufacturing, purchase, sale, lease, or exchange of goods and/or the provision of services.

CBT Unit means a Unit of the Colorado Big Thompson Project. A CBT Unit shall be defined to have a firm yield of 0.6 acre feet.

Caliper means the American Association of Nurserymen standard for trunk measurement of nursery stock, as measured at six inches above the ground for trees up to and including four-inch caliper size, and as measured at 12 inches above the ground for larger sizes.

Candela (cd) means a unit of luminous intensity.

Canopy means an ornamental or functional roof-like structure which is supported from the façade of a building. It may or may not be supported by columns.

Cantilever means an architectural element which projects from a structure and is supported at only one end.

Car and motor vehicle sales means storage and display of operational automobiles, motorcycles, RV's, boats, ~~and~~ or trucks in the open or in an enclosed space for sale or trade.

Car/motor vehicle washes means a building or portion of a building used for the washing of automobiles, light trucks and vans, but not commercial fleet, buses, and heavy trucks. Operating functions are performed mechanically, manually (self-service), and some may include partial manual detailing by the operator/owner of the vehicle. Vacuum stations may be included.

Caretaker Dwelling means an accessory dwelling on a non-residential property, secondary to the non-residential use of the property, occupied by the person who oversees the non-residential operation 24 hours a day, and their family.

Cash in lieu of water dedication means a separate and distinct fee from water taps, as required in the Development Review and Impact Fee Section of this Chapter thereof, which fee shall be utilized primarily to acquire water rights and necessary facilities for all beneficial uses within the Town. The Town shall issue a Certification of Water Dedication Credits for cash in lieu of water dedication payments for future development of the Town.

Cash-in-lieu (also known as "fee-in-lieu") for all purposes except water dedication means that the applicant, at the discretion of Town staff with final approval by the Town Administrator, shall pay the Town money instead of dedicating land in those cases where such delivery or dedication is required.

Cemetery means land used or intended to be used for the burial of the dead and dedicated for cemetery purposes, including mausoleums and mortuaries when operated in conjunction with, and within the boundaries of, such cemetery.

Center line means a line running midway between the bounding right-of-way lines of a street or alley. Where the bounding lines are irregular, the center line shall be determined by the Town Planner or Town Engineer.

Certificate of occupancy means a certificate issued by the Town only for the benefit of the Town after final inspection and upon a finding that the building, structure, site and/or development complies with all provisions of the applicable Town codes, permits, requirements and approved plans.

Change in use or *Change in Land Use* means a change in the purpose or activity for which a particular piece of land or its buildings is designed, arranged, or intended, or for which it is occupied or maintained as provided in the zoning regulations for the zone district in which the land is located.

Chapter means Chapter 30 of the Berthoud Municipal Code, also referred to as the Berthoud Development Code, both also referred to as this Code.

Character means those attributes, qualities and features that make up and distinguish a building or development and give it a sense of purpose, function, definition and uniqueness.

Child care center shall have the same definition as C.R.S. §26-6-102 (1.5) in effect at the time of interpretation.

Child care home means a residential home providing care to no more than twelve children.

Church or *place of worship and assembly* means a building containing a hall, auditorium or other suitable room or rooms used for the purpose of conducting religious or other services or meetings of the occupants of such structure. Church or place of worship and assembly shall include churches, synagogues or the like, but shall not include buildings used for commercial endeavors, including, but not limited to, commercial motion picture houses or stage productions.

Clerestory means a portion of an interior rising above adjacent rooftops and having windows admitting daylight to the interior.

Clinic means a building designed and used for the diagnosis and treatment of human patients that does not include overnight care facilities.

Clinic, addiction treatment means a building designed and used for the diagnosis and treatment of human patients with addictions and may include residential facilities licensed by the Colorado Department of Public Health and Environment, but excluding correctional and post-correctional facilities, juvenile detention facilities and temporary custody facilities. This definition does not include facilities which house more than one (1) individual who is required to register as a sex offender pursuant to State law.

Clubs and lodges means organizations of persons for special purposes or for the promulgation of sports, arts, literature, politics, or other common goals, interests or activities, characterized by membership qualifications, dues or regular meetings, excluding clubs operated for profit and/or places of worship or assembly.

Commercial mineral deposits mean oil, gas, gravel, and other natural deposits that may be extracted from a property for economic benefit.

Commercial and retail businesses, indoor sales and service – An establishment or place of business primarily engaged in selling merchandise or providing a service to individuals located indoors.

Common area means an area of land and buildings within a residential development which is developed for the use and enjoyment of all residents of the project, as distinguished from land designated for their individual, private use.

Common equestrian stabling and grazing means shared pastures and/or common barns for horses in a conservation subdivision and which is owned and maintained by a homeowner's association.

Community Design Standards means the standards set forth in the Design Section of this Chapter.

Community facility means a publicly owned facility or office building which is primarily intended to serve the recreational, educational, cultural, and administrative or entertainment needs of the community as a whole.

Community garden – A private or public facility used for the cultivation of fruits, flowers, vegetables, or ornamental plants by more than one person or family.

Community influence area (CIA) means the area extending three miles or more beyond the Town's municipal boundaries, for which the Town may be statutorily required to undertake general land use planning activities. Also known as the Future Land Use Area, Urban Growth Boundary, or Three-Mile Plan.

Compatibility means the characteristics of different uses or activities or design which allow them to be located near or adjacent to each other in harmony. Some elements affecting compatibility include height, scale, mass, and bulk of structures. Other characteristics include pedestrian or vehicular traffic, circulation, access and

parking impacts, landscaping, lighting, noise, odor, and architecture. Compatibility does not mean "the same as." Rather, compatibility refers to the sensitivity of development proposals to nearby existing and proposed development.

Comprehensive Plan means the adopted Town of Berthoud Comprehensive Plan, as amended.

Compressed gravel means gravel that has 95 percent compaction at standard proctor densities at two percent ± optimum moisture content.

Condominium means a single dwelling unit in a multiple unit structure or a commercial/industrial building which is separately owned and which may be combined with an undivided interest in the common areas and facilities of the property.

~~*Congregate Housing, group home, developmentally disabled* means a group living facility accommodating at least four but no more than eight adults. The facility must be licensed by the state. Services and supports are provided to persons with developmental disabilities.~~*Congregate Housing, group home, elderly* ~~means an owner-occupied or nonprofit group home for the exclusive use of not more than eight persons aged 60 years or older and the appropriate staff.~~

~~a. "Nonprofit group home" means a group home for the elderly which is owned and operated by a person or organization as provided by 31-23-303, C.R.S., 1973.~~

~~b. "Owner-occupied group home" means a group home for the elderly which is owned and operated by an individual or individuals who actually reside at and maintain their primary place of residence in the group home.~~

~~*Congregate Housing, Long-term care facility* means any of the following:~~

~~a. *Convalescent center* means a health care institution that is planned, organized, operated, and maintained to offer facilities and services to inpatients requiring restorative care and treatment and that is either an integral patient care unit of a general hospital or a facility physically separated from, but maintaining an affiliation with, all services in a general hospital.~~

~~*Congregate Housing, Nursing facility* means a facility, or a distinct part of a facility, which meets the state nursing home licensing standards, is maintained primarily for the care and treatment of inpatients under the direction of a physician, and meets the requirements in federal regulations for certification as a qualified provider of nursing facility services. "Nursing facility" includes private, nonprofit, or proprietary intermediate nursing facilities for the mentally or developmentally disabled.~~

~~*Intermediate health care facility* means a health-related institution planned, organized, operated, and maintained to provide facilities and services which are supportive, restorative, or preventive in nature, with related social care, to individuals who because of a physical or mental condition, or both, require care in an institutional environment but who do not have an illness, injury, or disability for which regular medical care and 24-hour per day nursing services are required.~~

~~*Congregate Housing, Safe house for adults or children* (up to 8 persons) means a facility providing temporary protective sanctuary for victims of crime or abuse, including emergency housing during crisis intervention for individuals, such as victims of a violent crime and abuse.~~

~~*Congregate Housing, Senior housing* means multifamily residential structures that provide housing for an elderly population, and typically include minimum age restrictions.~~

~~*d.*~~

Conservation easement means a right to prohibit certain acts with respect to the property in order to maintain the property in a manner that will preserve its value for recreation, education, habitat, open space, or historical importance.

Construction documents means the written specifications and drawings showing the specific location and design of improvements to be installed for the subdivision or development project in accordance with all applicable requirements and land uses.

Container means a truck trailer body or a cargo or shipping container that can be detached from the chassis for loading into a vessel, a rail car or stacked in a container depot. Containers may be ventilated, insulated, refrigerated, flat rack, vehicle rack, open top, bulk liquid or equipped with interior devices. Containers are intended for the temporary and mobile transport of goods, and may not be permitted for permanent use as storage, or as a permanent building.

Contractor's office/shop means an establishment for the indoor repair, maintenance, or storage of contractor's vehicles, equipment or materials for use in the mechanical, plumbing, electrical, electronic repair, small engine, landscaping contracting industry, for example. A contractor's office/shop may include the business office.

Convenience retail store means a retail store containing less than 5,000 square feet of gross floor area which sells everyday goods and services which may include, without limitation, ready-to-eat food products, groceries, over-the-counter drugs and sundries.

Convenience shopping center means a shopping and service center located in a complex which is planned, developed and managed as a single unit, and located within and intended to primarily serve the consumer demands of adjacent employment areas and residences.

Cooperative Planning Area (CPA) means the broader region within which land use activities are deemed to potentially impact the Town. While the Town may not have land use jurisdiction over much of this area, it is considered to be an area of significant planning influence.

Cornice means a continuous, molded projection that crowns a wall or other construction, or divides it horizontally.

Covenant means a private written agreement outlining regulations specific to a development. It is not enforced by the Town. No covenant shall be construed to be a waiver or modification of a requirement of this Code.

Cremation facility means a business containing properly installed, certified apparatus intended for use in the act of cremation.

Critical feature of Flood Control System Critical feature means an integral and readily identifiable part of a flood protection system, without which the flood protection provided by the entire system would be compromised.

Critical plant community means vegetation which is essential to the conservation of threatened or endangered species and which may require special management considerations or protection.

Crosswalk means a designated area for pedestrians to cross a street or other right-of-way.

Cul-de-sac means a local street with only one outlet and having the other end for the reversal of traffic movement.

Cultural assets means buildings, locations and other features considered historically or socially significant to the community.

Data Center means A use consisting of buildings or structures specifically designed or modified to house networked computers and data and transaction processing equipment and related infrastructure support equipment, including power and cooling equipment. A data center may be used to provide data and transaction processing services, outsource information technology services and/or computer equipment colocation services. A data center may also include buildings or structures that support the operation of the data center including retrofit buildings, warehousing for logistics, independent network buildings, buildings for support staff, and emergency

generators. A Data Center shall not include activities which consistently produce noise discernable at the property line. Should a Data Center produce noise discernable at the property line, it shall be classified as an Industrial use.

Dedicated land means land transferred to the Town by platting, title, deed or other legal method approved by the Town Attorney.

Dedication means any grant to a public entity by a landowner of a right to use that land for public purposes. It involves a transfer of property rights and an acceptance of the dedicated property by the appropriate public agency.

Density (gross) means the overall average number of dwelling units located in a development and calculated on a per-acre basis. Gross density is calculated by dividing the total number of residential units by the total acreage contained within a development.

Density (net) means the number of dwelling units located in a development divided by the developable area. Developable area includes the entire residential portion of the development, except land dedicated for public and private streets, detention ponds, third-party easements, rights-of-way, parks, open space, and other land areas open to the public.

Design standards mean the standards that set forth specific requirements for buildings and infrastructure.

Detached structure means any structure having no party wall or common wall with another structure. Bridges, tunnels and other similar means of connecting one structure to another shall not be considered to constitute a party wall or a common wall.

Detention basin means a man-made or natural water collection facility designed to collect surface and sub-surface water in order to impede its flow and to release the water into natural or manmade outlets at a rate that is not greater than the rate of flow prior to the development of the property.

Developer means any person, partnership, joint venture, limited liability company, association or corporation who participates as owner, promoter, developer or sales agent in the planning, platting, development, promotion, sale or lease of a development.

Development means the carrying out of any building activity or mining operation, the making of any material, a change in the use or appearance of any structure or land, or the dividing of land into two or more parcels. When appropriate in context, development shall also mean the act of developing or the result of development or redevelopment.

a. Development shall also include:
    i. Any construction, placement, reconstruction, alteration of the size, or material change in the external appearance of a structure on land;
    ii. Any change in the intensity of use of land, such as an increase in the number of dwelling units in a structure or on a tract of land or a material increase in the intensity and impacts of the development;
    iii. Any alteration of a shore or bank of a river, stream, lake, pond, reservoir or wetland;
    iv. The commencement of drilling oil or gas wells, mining, stockpiling of fill materials, filling or excavation on a parcel of land;
    v. The demolition of a structure;
    vi. The clearing of land as an adjunct of construction;
    vii. The deposit of refuse, solid or liquid waste, or fill on a parcel of land;
    viii. The installation of landscaping within the public right-of-way, when installed in connection with the development of adjacent property;
    ix. The construction of a roadway through or adjoining an area that qualifies for protection as a wildlife or natural area; and

x. Any manmade change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations located within the area of special flood hazard.

b. Development shall not include:

i. Work by a highway or road agency or railroad company for the maintenance or improvement of a road or railroad track, if the work is carried out on land within the boundaries of the right-of-way;

ii. Work by any public utility for the purpose of inspecting, repairing, renewing or constructing on established rights-of-way any mains, pipes, cables, utility tunnels, power lines, towers, poles, or other infrastructure. This exemption shall not include work by a public entity in constructing or enlarging mass transit or fixed guide way mass transit depots or terminals or any similar traffic-generating activity;

iii. The maintenance, renewal, improvement, or alteration of any structure, if the work affects only the interior or the color of the structure or the decoration of the exterior of the structure;

iv. The use of any land for an agricultural activity;

v. A change in the ownership or form of ownership of any parcel or structure; or

vi. The creation or termination of rights of access, easements, covenants concerning development of land, or other rights in land.

Development agreement means an agreement by a developer with the Town which clearly establishes the developer's responsibility regarding project phasing, the provision of public and private facilities and improvements and any other mutually agreed to terms and requirements.

Development plan means the written and graphical documents that detail the provisions for development of a parcel of land . These provisions may include, and need not be limited to, easements, covenants and restrictions relating to: use; location and bulk of buildings and other structures; intensity of use or density of development; utilities, private and public streets, ways, roads, pedestrians, areas, and parking facilities; common open space, and other public facilities.

Developmental disability means a disability that manifests before the person reaches twenty-two years of age, that constitutes a substantial disability to the affected person, and that is attributable to an intellectual and developmental disability or related conditions, including Prader-Willi syndrome, cerebral palsy, epilepsy, autism, or other neurological conditions when the condition or conditions result in impairment of general intellectual functioning or adaptive behavior similar to that of a person with an intellectual and developmental disability. (C.R.S. 25.5-6-403)

Distillery means any establishment where spirituous liquors are manufactured. Distilleries may include a tasting room and retail sales where such manufactured liquors may be sold and consumed on-site. Distilleries are regulated and licensed in accordance with the Colorado Department of Revenue Liquor Enforcement Division.
Dormer means a projecting structure built out from a sloping roof, usually with a vertical window or vent.

Downtown means the central business district of the Town. The boundary of downtown may change as the Town grows.

Drive aisle means the lanes in a parking lot devoted to the passage of vehicles, as opposed to the parking stalls. The term drive aisle does not include lanes used only, or primarily for, drive-in customer service.

Drive-through use means an establishment which by design, physical facilities, service, product or packaging procedures encourages or permits customers to receive services, obtain goods or be entertained while remaining in their motor vehicles.

Driveway means a constructed vehicular access serving one or more properties and abutting a public or private road.
Dwelling means a building used primarily for residential occupancy, including single-family dwellings, two-family

dwellings and multi-family dwellings. Dwellings may include home occupations as defined by this Code through the Home Occupation permit process.

Dwelling, factory-built means a dwelling which is partially or entirely manufactured in a factory and designated for long-term residential use; built in multiple sections. Factory built homes must be constructed to the standards of the State of Colorado Factory Built Construction Certification Code (8 CRR 1302-3) and bear a certification insignia in compliance with those standards.

Dwelling, Mobile home means a unit partially or entirely manufactured in a factory, built on a permanent chassis, and which is designed to be transported on streets to the place where it is to be occupied as a dwelling unit, is at least eight feet wide and 32 feet long; and is designed to be used as a dwelling without permanent foundation when connected to required utilities. A mobile home is a manufactured home produced prior to June 15, 1976. A mobile home does not include a factory built home, manufactured home, or a recreational vehicle (RV).

Dwelling, Manufactured home means a single-family dwelling which:

a. Is partially or entirely manufactured in a factory;
b. Is not less than ~~at least~~ 24 feet wide and 36 feet in length;
c. Is permanently affixed to, and installed on an engineered permanent foundation at the entire perimeter of the dwelling; ~~.~~
d. Is connected to the required utilities, and includes plumbing, heating, air conditioning and electrical systems;
d. Has a pitched or cosmetically equivalent roof of at least 4/12 pitch;
e. Has brick, wood, or cosmetically equivalent wood exterior siding; and
e. Is certified pursuant to the "National Manufactured Housing Construction and Safety Standards Act of 1974", 42 U.S.C. 5401, et seq., as amended.

Dwelling, Model home means a dwelling temporarily used as a sales office or demonstration home for a residential development under construction, said dwelling being used as an example of a product offered for sale to purchasers (by a realtor, building developer or contractor). The dwelling may be furnished but not occupied as a residence while being used as a "model home." A model home is required to meet the architectural diversity requirements found in this Chapter as well as the lot development standards approved with the subdivision.

Dwelling, multi-family means a dwelling containing three or more dwelling units, not including hotels, motels, fraternity houses and sorority houses and similar congregate housing accommodations.

Dwelling, single-family means a building designed exclusively for occupancy by one family, but not including mobile homes, except as otherwise provided herein.

Dwelling, single-family attached means a residential building containing dwelling units, each of which primary ground floor has access to the outside and which are attached to each other by party walls without openings. The term is intended primarily for such dwelling types as townhouses and duplexes.

Dwelling, single-family detached means a single-family dwelling which is not attached to any other dwelling or building by any means, excluding mobile homes. Designed exclusively for occupancy by one family.

Dwelling, two-family means a building designed for occupancy by two families living independently of each other.

Dwelling unit means any building or a portion thereof which contains living facilities, including provisions for sleeping, eating, cooking, and sanitation, as required by the International Building Code or the International Residential Code, as locally amended.

Easement means a right generally established in a real estate deed or on a recorded plat to permit the use of land by the public, a corporation or particular persons for specified uses.

Eave means the overhanging lower edge of a roof.

Eighty-five-degree full cut-off type fixtures means fixtures that do not allow light to escape above an 85-degree angle measured from a vertical line from the center of the lamp extended to the ground.

Elevation means the external vertical plane of a building.

Employment campus means an area characterized by single and multi-tenant uses commonly including corporate headquarters, research and development facilities, laboratories, offices and light industrial uses.

Engineer means a professional engineer licensed by the State of Colorado.

Entertainment facilities and theaters mean a building or part of a building devoted to showing live performances.

Environmentally sensitive areas include aquifer recharge areas, significant wildlife habitat and migration corridors, unique vegetation and critical plant communities, rivers, lakes, ponds, streams, other water bodies not including irrigation ditches and stormwater infrastructure, and ridge lines.

Equipment (small) rental establishments without outdoor sales means the display of equipment entirely within a building for sale or rent, and outdoor storage or display of equipment is not permitted. Equipment allowed through this definition are typically hand-operated, intended to be stored indoors, and geared to the general public and not the construction industry, such as ladders, blowers, mowers, saws, generators, etc.

Equipment rental (heavy) establishments with outdoor sales means the display of heavy equipment outside of a building for sale or rental purposes. Examples of such equipment includes, but is not limited to tractors, dozers, cranes, harvesters, etc.

Electric Vehicle (EV) means a motor vehicle which relies partially or entirely on electrical energy to power its movement, requiring periodic electrical current charging of its battery.

EV Charging Station means equipment that provides charging for EVs, located adjacent to dedicated space(s) for the vehicle(s) while they charge. One EV Charging Station may provide power for one or more vehicles.

EV Supply Equipment (EVSE) means all equipment necessary to provide electrical current charging for EVs, except for the EV Charging Station itself. This may include power conversion equipment, electrical distribution equipment, such as transformers, switchgear boxes, and distribution lines, and/or other supportive equipment.

EV Charging, Principal Use means DCFC EV Charging Stations and Equipment that serve as the primary function and land use on the subject lot. DCFC – or direct current fast charging – is high-speed charging that provides about 50-350+ kW of power per hour and uses a 480V three-phase outlet.

EV Charging, Accessory Use means DCFC EV Charging Stations and Equipment that are incidental and subordinate to the Primary Use on the subject lot. DCFC – or direct current fast charging – is high-speed charging that provides about 50-350+ kW of power per hour and uses a 480V three-phase outlet

Exhaust pipe means a pipe used to guide waste exhaust gases away from a controlled combustion inside an engine or stove.

Exhaust vent means a continuous open passageway from the flue collar or draft hood of the appliance to the outside atmosphere for the purpose of removing flue gases.

Extension of water service means any extension of the Town water service for which a tapping charge is

assessed or any increase in Town water service resulting from a Change in Land Use.

Exterior lighting means temporary or permanent lighting that is installed, located or used in such a manner to cause light rays to shine outside. Fixtures that are installed indoors that are intended to light something outside are considered exterior lighting.

Façade means the elevation or exterior face of a building.

Family as defined by Colorado State Statute means two or more persons, whether or not related by blood, marriage, or adoption, who live or expect to live together as a single household in the same home, ora single person who is either at least sixty-two years of age or has a disability.

Family care, elderly day care center means a facility providing care for the elderly and/or functionally impaired adults in a protective setting for a portion of a 24-hour day. No overnight care is provided.

Farmer's Market means a temporary or occasional location for the outdoor retail sales of farm produce, art, fresh flowers, craft items, food and beverages from vehicles or temporary stands.

Feedlot means any tract of land or structure, pen or corral, wherein cattle, sheep, goats, emus, ostriches or swine are maintained in close quarters for the purpose of raising such livestock.

FEMA means Federal Emergency Management Agency.

Fence means any structure that is comprised of posts, boards, wire, stakes, rails or any combination of similar elements that provides a physical barrier, enclosure or boundary.

FHA means Federal Housing Administration.

~~*Final acceptance* means the acknowledgement by the Town that the guaranty or warranty period for public improvements has expired and there are no outstanding items to be corrected under the provisions of the guaranty or warranty.~~

~~*Final Development Plan (FDP)* means a development review process under previous versions of the Land Development Code.~~

Final plat means a completed map of a subdivision setting forth fully and accurately all legal information, survey certification and any accompanying materials as required by this Code.

Fire station means a building used to store and maintain fire equipment and to house firefighters.

Fireworks sales – temporary means an establishment for the sale of fireworks on a temporary basis.

Fixture means the assembly that holds the lamp in a lighting system. It includes the elements designed to give light output control; such as a reflector (mirror) or refractor (lens), the ballast, housing, and the attachment parts.

Flood or *flooding* means a temporary condition of partial or complete inundation of normally dry land areas from the overflow of inland waters or the unusual and rapid accumulation of runoff or surface waters from any source.

Floodplain or *flood hazard area* means areas which have been designated by the Board, the Colorado Water Conservation Board or FEMA as susceptible to flooding.

Floodprone means areas subject to flooding which have not been designated as a floodplain or flood hazard area by the Board, the Colorado Water Conservancy Board or FEMA.

Floodway means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than 0.5 foot.

Flood Insurance Rate Map (FIRM) means the official map on which the Federal Emergency Management Agency has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.

Flood Insurance Study means the official report provided by the Federal Emergency Management Agency that includes flood profiles, the Flood Boundary-Floodway Map, and the water surface elevation of the base flood.
Flood light means light that produces up to 1,800 lumens and is designed to "flood" a well-defined area with light. Generally, floodlights produce from 1,000 to 1,800 lumens.

Floor area, also called *gross floor area*, means the total square footage of the building measured along the outside walls of the building and including each floor level, but not including open balconies, garages or other enclosed automobile parking areas and basement storage areas, and not including one-half of all storage and display areas for durable goods.

Floor Area Ratio (FAR) means the amount of gross floor area of all principal buildings on a lot or block, as the case may be, divided by the total area of such lot, or the block size, respectively, on which such buildings are located. For mixed-use blocks, the residential square footage shall be added to the commercial development for a total block FAR.

Flow line means the low point within a street section wherein water collects and flows, typically the gutters along each edge of the pavement.

Footprint, also called *ground level footprint*, means the outline of a building's perimeter at ground level.

Foot-candle means the illumination produced on a surface one foot from a uniform point source of one candela. Foot-candles will be measured by a light meter.

Foster care home shall have the same meaning as §26-6-903(10) of the Colorado Revised Statutes applicable at the time of interpretation.

Frontage means the length of property along one side of a street between property or lease boundary lines.

Full cutoff fixture means a fixture which, as installed, gives no emission of light above a horizontal plane.

Funeral home means a building used for the preparation of deceased persons for burial or cremation, for the display of deceased persons and/or for ceremonies or services related thereto, including cremation and the storage of caskets, funeral urns, funeral vehicles and other funeral supplies.

Gable means the triangular portion of wall enclosing the end of a pitched roof from cornice or eaves to ridge.

Garage means a building or part of a building wherein motor vehicles are housed or stored.

Gasoline station means any building, land area, premises or portion thereof, where gasoline or other petroleum products or fuels are sold and in which light maintenance activities such as engine tune-ups, lubrication and minor repairs may be conducted. Gasoline stations shall not include premises where heavy automobile maintenance activities such as engine overhaul, automobile painting and body and fender work are conducted.

Geologic hazards mean unstable or potentially unstable slopes, undermining, faulting, landslides, rock falls, flood, wildfire or similar naturally occurring dangerous features or soil conditions or natural features unfavorable to development.

Glare means intense light that results in discomfort and/or a reduction of visual performance and visibility.

Grade means the degree of rise or descent of a sloping surface.

Grade, finished means the final elevation of the ground surface after development.

Grade, natural means the elevation of the ground surface in its natural state, before man-made alterations.

Grocery store, large means a retail establishment which primarily sells food, but also may sell other convenience and household goods, and which occupies a space greater than 25,000 square feet. The term large grocery store is synonymous with supermarket.

Grocery store, small means a retail establishment primarily selling food, as well as other convenience and household goods, which occupies a space of not more than 25,000 square feet.

Gross square footage (GSF) means the total floor area designed for occupancy and use, including basements, mezzanines, stairways and upper floors, if any, expressed in square feet and measured from the centerline of joint partitions and from outside wall faces.

Group *care facility* means a facility providing custodial care and treatment, or social services, in a protective living environment for persons residing in the facility either voluntarily or by court placement, including without limitation facilities commonly known as group homes for the aged, group homes for the developmentally disabled, group foster care homes, shelters for abused persons, safehouses, nursing homes, intermediate care facilities and residential care facilities licensed by the Colorado Department of Public Health and Environment, but excluding correctional and post-correctional facilities, addiction treatment clinics, juvenile detention facilities and temporary custody facilities. This definition does not include facilities which house more than one (1) individual who is required to register as a sex offender pursuant to State law.

Growth Management Area (GMA) means the existing incorporated area of the Town as well as additional areas outside of the current Town limits determined to be feasible for development at greater than county densities within the next 20 years. May also be referred to as the Future Land Use Map or the Three-Mile Plan.

Guaranty means any form of security in an appropriate amount and form satisfactory to the Town. "Guaranty" shall cover construction performance and warranty term provisions.

~~*Guest house* means an accessory structure which is physically detached from a single-family dwelling unit, is serviced through the same utility meters or connections as the principal use, and is intended for temporary occupancy by visitors to the family residing in the single-family dwelling.~~

Health club means a facility that provides physical fitness services and/or equipment to its members.

Highway, corridor means the area within and adjacent to the rights-of-way of Colorado Highway 56, Colorado Highway 287 and Interstate 25.

High intensity activity node means a land use that caters to the needs of local residents and visitors alike and may contain a wide palette of uses that include commercial, office, residential, civic and transit amenities.

Hip roof means a roof having sloping ends and sides meeting at an inclined projecting angle.

Historic district means an area related by historical events or themes by visual continuity or character or by some other special feature that helps give it a unique historical identity. Such area may be designated a historic district by local, state, or federal government and given official status and protection.

Historic site means a structure or place of historical significance. Such structure or place may be designated a historic site by local, state, or federal government and given official status.

Holiday lighting means festoon type lights, limited to small individual bulbs on a string, where the output per bulb is no greater than 15 lumens.

Home occupation means an occupation or business activity conducted by the resident which results in a product or service and which is actively conducted by a person on the same lot on which the person resides.

Homeowners association means the association set up to enforce the covenants and to maintain all common areas and buildings for a development. Also known as an "Owners Association."

Horticulture means the growing of turf, fruits, vegetables, herbs, flowers or ornamental plants.

Hospital means an institution providing health services for human in-patient medical or surgical care for the sick or injured and including related facilities such as laboratories, out-patient departments, training and central services facilities and staff offices.

Hotel/motel/lodging establishment means a building intended and used for occupancy as a temporary abode for individuals who are lodged with or without meals, in which there are 12 or more guest rooms.

Human scale (pedestrian scale) means the proportional relationship between the dimensions of a building or building element, street, outdoor space or streetscape element and the average dimensions of the human body, taking into account the perceptions and walking speed of a typical pedestrian.

I-25 corridor/Highway 56 gateways means the land near this intersection that may include bridge enhancements, entrance monumentation and special landscape treatments designed to announce entrance into the community.

Illuminance means the amount of light that covers a surface, measured by foot-candle or lux.

Illuminating device means the following:

1. *Light fixture types*
    a. *Full cutoff fixture types* — A fixture which, as installed, gives no emission of light above a horizontal plane.
    b. *Floodlights and spotlights* — Fixtures defined as having a full beam width or beam spread of less than 110 degrees.
2. *Lamp types*
    a. *Incandescent lamps* — Lamps which produce light via an electrically heated metallic filament.
    b. *Fluorescent lamps* — Lamps that use fluorescence of a phosphor to produce visible light.

High intensity discharge (HID) lamps mean lamps, which produce visible light directly by the electrical heating or excitation of a gas. Examples of such lighting include, but are not limited to, Metal Halide, High Pressure Sodium, Low Pressure Sodium and Mercury Vapor. Fluorescent lights are not considered HID lighting.

Illumination, concealed means an artificial light source either internal to a sign structure or shielded from public view and from the surrounding properties used to illuminate only the face of a sign and not any area beyond

the face.

Illumination, direct means lighting by means of an unshielded light source (including neon tubing) which is effectively visible as a part of the sign, where light travels directly from the source to the viewer's eye.

Illumination, external or indirect means lighting by means of a light source directed at a reflecting surface in a way that illuminates the sign from the front, or a light source that is primarily designed to illuminate the entire building facade upon which a sign is displayed. Indirect illumination does not include lighting which is primarily used for purposes other than sign illumination; e.g., parking lot lights, or lights inside a building that may silhouette a window sign but are primarily installed to serve as inside illumination.

Illumination, internal means lighting by means of a light source that is within a sign having a translucent background, silhouetting opaque letters or designs, or which is within letters or designs that are made of a translucent material.

Industrial, Heavy means uses engaged in the processing and manufacturing of materials or products predominantly from extracted or raw materials, or a use engaged in storage of, or manufacturing processes using flammable or explosive materials, or storage or manufacturing processes that potentially involve hazardous conditions. Heavy industrial also means those uses engaged in the cleaning of equipment or work processes involving solvents, solid waste or sanitary waste transfer stations, recycling establishments, truck terminals, public works yards, and container storage.

Industrial, light means uses engaged in the manufacture, predominantly from previously prepared materials, of finished products or parts, including processing, fabrication, assembly, treatment, packaging, incidental storage, sales or distribution of products, provided all manufacturing activities are contained entirely within a building and noise, odor, smoke, heat, glare and vibration resulting from the manufacturing activity are contained entirely within the building. Light industrial shall also mean uses such as the manufacture of electronic instruments, preparation of food products, pharmaceutical manufacturing, research and scientific laboratories or the like. Light industrial shall not include uses such as mining and extracting industries, petrochemical industries, rubber refining, and primary metal or related industries.

Infrastructure means those man-made structures which serve the common needs of the population, such as: potable water systems; wastewater disposal systems; solid waste disposal sites or retention areas; storm drainage systems; electric, gas or other utilities; bridges; roadways; bicycle paths or trails; pedestrian sidewalks, paths or trails; and transit stops.

~~*Initial acceptance* means an acknowledgment by the Town that to the best of the Town's knowledge, all work has been completed in accordance with the plans and specifications.~~

Inn means a building intended and used for occupancy as a temporary abode for individuals who are lodged with or without meals, in which there are less than 12 guest rooms. Integrate means to combine or coordinate separate elements (such as housing, recreation, jobs, and shopping) to provide a harmonious, interrelated whole; organized or structured so that constituent parts function cooperatively.

Integrate means to combine or coordinate separate elements (such as housing, recreation, jobs, and shopping) to provide a harmonious, interrelated whole; organized or structured so that constituent parts function cooperatively.

Intra-neighborhood connections mean connections (such as trails and roads) within the same neighborhood.

Inter-neighborhood connections mean connections (such as trails and roads) between neighborhoods.

Irrigation ditch or *canal* means a channel designed to transport irrigation water.

Junk means scrap brass, iron, lead, tin, zinc; all other scrap metals and the alloys; bones; rags; used cloth, rope, rubber, tinfoil, bottles; old or used machinery of any type; used tools; used appliances; used lumber or crates; building materials; industrial equipment, fabrication of any material; used pipe or pipe fittings; used conduit or conduit fittings; used automobile parts; derelict vehicles, farm and heavy equipment construction vehicles; used tires and other manufactured goods that are so worn, deteriorated or obsolete as to make them unusable in their existing condition.

Junkyard means a building, structure or parcel of land, or portion thereof, used for collecting, displaying, storing, selling or reselling junk. Junkyards shall not include a recycling facility.

Kennel means a facility licensed to house dogs, cats or other household pets and/or where grooming, boarding or training of animals is conducted as business. Outdoor runs may be allowed when screened from view of adjacent properties and where sound mitigation is established.

Laboratory and/or *research facility* means a facility primarily engaged in scientific research, analysis, production, and/or experimentation of a product.

Lamp or *bulb* means the light-producing source installed in the socket portion of a luminaire.

Landowner means any owner of a legal or equitable interest in real property, and includes the heirs, successors, and assigns of such ownership interests.

Landscaping means any combination of living plants such as trees, shrubs, plants, vegetative ground cover or turf grasses, and may include structural features such as walkways, fences, benches, works of art, reflective pools or fountains. Landscaping shall also include irrigation systems, mulches, topsoil and soil preparation, re-vegetation and the preservation, protection and replacement of existing trees.

Land improvements means physical changes made to land and/or structure placed on or under the land surface in order to change the natural or preexisting conditions of the land.

Lane means a private street, portion of a roadway delineated for a single line of vehicles; or a secondary means of access to the lots abutting a street and not intended for general traffic circulation.

Laundry and dry-cleaning retail outlet means a laundry or dry-cleaning business which consists primarily of serving retail customers, provided that any laundry and dry-cleaning processing that occurs on the premises is limited to items which are brought directly to the premises by the retail customer.

Legal building site means a lot that can be developed within the provisions of this Code and within other rules and regulations adopted by the Town and/or State of Colorado.

Levee means a manmade structure, usually an earthen embankment, designed and constructed in accordance with sound engineering practices to contain, control or divert the flow of water so as to provide protection from temporary flooding.

Levee system means a flood protection system which consists of a levee or levees, and associated structures, such as closure and drainage devices, which are constructed and operated in accordance with sound engineering practices.

Light pollution means any adverse effect of manmade light including, but not limited to, light trespass, up-lighting, the uncomfortable distraction to the eye, or any man made light that diminishes the ability to view the night sky. Often used to denote urban sky glow.

Light trespass means any light emitted by a luminaire falls where it is not wanted or needed or shines beyond

the property on which the luminaire is installed.

Lighting means any or all parts of a luminaire that function to produce light.

Lighting, indirect when applied to the lighting of signs, shall mean reflected light only from a concealed light source outside the sign face which reflects from the sign face only or from the sign face and sign copy.

Limited indoor recreation facility means a place where recreation activities occur completely within an enclosed structure including but not limited to bowling alleys, skating rinks, pool halls, and video and pinball parlors.

Limited outdoor recreation facility means a place with outdoor activities including but not limited to miniature golf, batting cages, water slides, skateboard parks, driving ranges, and go-cart tracks.

Livability refers to the factors related to the long-term wellbeing of individuals and communities. Livability encompasses factors like neighborhood amenities, including parks, open space, walkways, and businesses as well as environmental quality, safety, and health. Additionally, livability considers the availability and quality of public transport, educational institutions, and healthcare facilities. It also considers the overall cultural and social atmosphere of a place, including the presence of diverse recreational activities and community engagement opportunities. All these factors combined create an environment that enhances the overall quality of life for residents and contributes to creating a sense of place.

Live work buildings are used for both living and working. The particular building is officially designated to allow the occupant of the residential portion of the building to operate their business. An example is a professional or business office on the first floor and residential uses on the second floor.

Lot means an area of land, created through the subdivision process, plat or otherwise permitted by law, to be separately owned, used, developed, or built upon. An area of land occupied or intended for occupancy by one main use permitted in this code, including a principal building and its accessory buildings or as otherwise provided in this code. A lot shall meet all minimum requirements as established by this code including but not limited to minimum size and width, and shall have direct access to a public or private street. Also refer to the definition of Outlot and Tract.

Lot, corner means a lot or area of land abutting upon two or more streets at their intersection, or upon two parts of the same street forming an interior angle of less than 135 degrees. All corner lots shall have one front yard, one back or rear yard and two side yards. The Town Planner and Building Official shall designate these yards and will base their decision on the orientation of the structure on the lot and the street to which the structure is addressed to.

Lot depth means the average distance between the front lot line and the rear lot line.

Lot, flag means a lot so shaped and designed that the main building site area is set back from the street on which it fronts and includes a narrow access strip connecting the main building site with the frontage street.

Lot line, front means the property line dividing a lot from a street. On a corner lot only one street line shall be considered as a front line, and the shorter street frontage shall be considered the front line. Where the lot is accessed by an alley or is alley loaded, the front shall be defined as the lot line opposite the alley lot line.

Lot line, rear means the line opposite the front lot line.

Lot, reverse corner means a corner lot having its side street line substantially a continuation of the front lot line of the first lot to its rear.

Lot line, side means any lot lines other than the front lot line or rear lot line.

Lot size means the total horizontal area within the lot lines of a lot; synonymous with area of lot.

Lot width means the distance parallel to the front lot line, measured at the front building setback line. Lot width on a curving front lot line means the distance parallel to the tangent of the front lot line at the building setback line. The lot width and the lot frontage may have different lengths on an irregularly shaped lot as they are measured at different points on the lot.

Lowest floor means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood-resistant enclosure, usable solely for parking of vehicles, building access or storage, in an area other than a basement area, is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this Chapter.

Lumen means a unit of luminous flux; the flux emitted within a unit solid angle by a point source with a uniform luminous intensity of one candela. One foot-candle is one lumen per square foot. One lux is one lumen per square meter.

Luminaire means the complete lighting unit, including the lamp, the fixture, and other parts.

Luminance means at a point and in a given direction, the luminous intensity in the given direction produced by an element of the surface surrounding the point divided by the area of the projection of the element on a plane perpendicular to the given direction. Units: candelas per unit area. The luminance is the perceived brightness that can be seen, the visual effect of the illuminance, reflected, emitted or transmitted from a surface.

Machine shop means a workshop where power-driven tools are used for making, finishing, or repairing machines or machine parts.

Management Agency means the agency in charge of the "208 Water Quality Plan" in the Berthoud area.

Manager means the Town Manager or Administrator of the Town of Berthoud.

Manufacturing means a business which makes products by hand or by machinery.

Marina means a waterfront establishment where docking, moorings and dry storage is offered for boats and marine sporting equipment. Retail sales of supplies may be included.

Massing means the distribution of the volume of a structure or landscape and the visual weight relationships of the various forms of a structure or landscape to one another and to the structure or landscaping as a whole.

Master plan means a development plan that shows how an entire site is proposed for development in a general fashion including a delineation of proposed construction phases.

Mean sea level means, for purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929 or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced.

Measurement of luminance means a lamp output with the following characteristics:

a. *Total output:* Measurement of total output is in lumens. This should be understood to be the initial lumen value for the lamp.
b. *Illuminance:* Measurements of illuminance are expressed in initial lumens per square foot. (A desktop illuminance of 20 initial lumens per square foot is adequate for most purposes.)
   In measuring illuminance, the light detector or meter should be pointed directly at the light source or sources. The intervening light path should be free of obstruction.

Median means an area in the approximate center of a street or highway which is used to separate the directional flow of traffic.

Medical and dental office or *clinic* means an establishment operated by one or more duly licensed members of the human health care professions including, but not limited to, physicians, dentists, chiropractors, psychiatrists and osteopaths, where patients are not lodged overnight but are admitted for outpatient examination and/or treatment.

Marijuana store, medical means a person licensed pursuant to C.R.S. Title 44, Article 10, to operate a business as described in C.R.S. Section 44-10-501 that sells marijuana to registered patients or primary caregivers defined in section 14 of article XVIII of the state constitution.

Marijuana store, retail has the same meaning as defined in Section 16(2)(n) article XVIII of the state constitution.

Medical marijuana-infused products manufacturer means a person licensed pursuant to C.R.S. Title 12, Article 43.3 to operate a business as described in C.R.S. Section 12-43.3-404.

Marijuana products manufacturer, retail has same meaning as defined in section 16(2)(i) article XVIII of the state constitution.

Marijuana cultivation facility, medical means a person licensed pursuant to C.R.S. Title 12, Article 10 to operate a business as described in C.R.S. Section 44-10-502.

Marijuana cultivation facility, retail has the same meaning as defined in section 16(2)(h) article XVIII of the state constitution.

Marijuana business, medical has the same meaning as defined in C.R.S. Section 44-10-103(35).

Marijuana business, retail has the same meaning as defined in C.R.S. Section 44-10-103(58).

Marijuana business, allowed business as used in this Chapter 30 shall mean collectively and exclusively medical marijuana stores, retail marijuana stores, medical marijuana products manufacturers, retail marijuana manufacturers, medical marijuana cultivation facilities and retail marijuana cultivation facilities and excludes all other medical marijuana businesses and retail marijuana businesses.

Meeting place and place for public assembly means a hall, auditorium or other suitable room or rooms used for the purpose of conducting meetings of the membership and guests of the owner of such structure. The same shall not include commercial endeavors such as commercial movie picture houses, stage productions or the like.

Micro-brewery means any establishment that manufactures malt liquors or fermented malt beverages on-site, including the sale and consumption of such beverages on-site. Micro-brewery can also mean brew pub, where food is permitted to be served for consumption on-site. Breweries and brew pubs are regulated and licensed in accordance with the Colorado Department of Revenue Liquor Enforcement Division.

Mixed use shall mean the development of a lot tract or parcel of land, building or structure with two or more different uses including but not limited to residential, office, retail, public uses, personal service or entertainment uses, designed, planned and constructed as a unit.

Mixed use building means a building designed, planned and constructed as a unit, used partially for residential use and partly for commercial uses including, but not limited to, office, retail, public uses, personal service or entertainment uses.

Mixed use dwelling unit means the dwelling unit in a mixed use building. For purposes of calculating residential density, each dwelling unit shall count as one-half dwelling unit.

Model plans means a set of standard plans for a home.

Modified grid pattern means a grid pattern of streets and blocks adapted to the topography, unique natural features, environmental constraints, and peripheral open space areas.

Movie Theater: A structure that contains audience seating, on one or more screens and auditoriums, and a lobby with or without a refreshment station. If more than one auditorium/theater will be in one overall structure, they shall share a box office/ticket office, lobby areas, parking facilities, restrooms, concession areas, signs, and other service and maintenance facilities.

Mullion means a slender vertical member dividing the opening for a pair of double doors, sometimes removable to permit the passage of large objects, or also, a vertical member between the lights of a window.

Municipality means an incorporated city or town.

Muntin means a strip of wood or metal that separates and holds panes of glass in a window.

Museum means an institution devoted to the procurement, care, study, and display of objects of lasting interest or value.

Native Seed Area means an area that is planted using broadcast native or drought-tolerant seed mix, resulting in a drought-tolerant turf. These areas have a water dedication requirement of 0.8 acre-feet per acre.

Natural Area as it pertains to the Impact Fee Section of this Chapter shall means an area that (a) is appropriately vegetated and free of weeds; (b) is capable of maintaining the existing vegetation without irrigation; (c) has been dedicated to and accepted by the Town; and (d) is a wetland under the criteria in the Wetlands Delineation Manual utilized by the U.S. Army Corps of Engineers and U.S. Environmental Protection Agency in effect at the time of dedication to the Town. All Natural Areas shall be encumbered by a conservation easement. Natural Areas do not require any irrigation. In order to qualify as a Natural Area, the Developer must pay the Town's fees and expenses incurred in determining whether the area is a wetland and appropriately vegetated, and the Natural Area must be accepted by the Town at the Town's sole discretion by and through the Town Administrator.

Natural Medicine Healing center means a facility where an entity is licensed by the state licensing authority that permits a facilitator to provide and supervise natural medicine services for a participant. Natural Medicine Healing centers are regulated by the Natural Medicine Code, a Section of the Berthoud Land Development Code.

Natural medicine business means any healing center, natural medicine cultivation facility, natural medicine products manufacturer, or natural medicine testing facility, licensed to operate pursuant to the Colorado Natural Medicine Code. Natural Medicine Businesses are regulated by the Natural Medicine Code, a Section of the Berthoud Land Development Code.

Natural preserve/open lands means areas identified on the Town Comprehensive Plan Preferred Land Use map or related maps including but not limited to: parks, bodies of water, the Hwy. 287 buffer area, trail corridors, conservation easements, irrigation ditches, floodplains and flood ways, natural drainage and water ways, significant native trees and vegetation, wildlife travel corridors, special habitat features, remnant native prairie habitat, plains cottonwood galleries, and any wetland greater than one-quarter acre in size.

Neighborhood means a geographical area, the focus of which are residential uses, but also may include a mixture of activities that people need to live. A neighborhood may include a diversity of housing types, schools, parks, shopping and jobs (frequently service-type), and civic buildings.

Neighborhood commercial center means a shopping center which contains businesses that are intended to provide goods and services to the immediate neighborhood (within a one-quarter mile radius).

New construction means structures for which the start of construction or remodeling commenced on or after the effective date of this Code.

Nightclub means a bar or tavern containing more than 100 square feet of dance floor area.

Nonconforming building means a building or structure, or portion thereof, that does not conform to the regulations of this Code, but that was lawfully constructed under the regulations in force at the time of construction.

Nonconforming sign means a sign which does not conform to the regulations within this Code but was lawfully erected under the regulations in force at the time it was erected.

Nonconforming use means a use that does not conform to the use regulations of this Code, but that was lawfully established under the regulations in force at the time the use was established and has been in regular use since that time.

Noxious weeds means plants that are determined by the State of Colorado, Larimer or Weld County, or the Town as a noxious weed or an alien plant that is aggressively invasive. Refer to the Town's Landscape Design Guidelines. ~~including but not limited to Leafy Spurge, Russian Knapweed, Spotted Knapweed, Diffuse Knapweed, Canada Thistle, Musk Thistle, Field Bindweed, Volunteer Rye, and Jointed Goatgrass.~~

Off-site improvement means any improvement on property wholly or partly located outside the area of the property being subdivided, whether or not in the same ownership of the entity doing the subdivision.

Oil and gas operation means any structure, facility or activity which is constructed on or disturbs land in association with oil or gas drilling, production or waste treatment and disposal, including but not necessarily limited to wells, tanks or tank batteries, pits, access roads for ingress and egress and pipelines.

Oil or gas well means a well that produces oil or gas.

Open space means any land or water area with its surface open to the sky, which serves specific uses of providing park and recreation opportunities, conserving natural areas and environmental resources and protecting areas of agricultural, archeological or historical significance. Open space shall not be considered synonymous with vacant or unused land. Usable open space shall exclude areas used for off-street parking, off-street loading, service driveways, setbacks from oil and gas wells and their appurtenances, or other hazards to the public, native open areas on steep slopes, floodways, or easements for utilities.

Open space, common means a parcel of land, an area of water, or a combination of land and water within a development designed and intended primarily for the use or enjoyment of residents, occupants and owners of that development.

Open space, functional means open space which is large enough to serve a practical purpose such as recreation, wildlife habitat or preservation of areas of agricultural, archeological or historical significance and shall exclude areas used for off-street parking, off-street loading, service driveways and setbacks from oil and gas wells or their appurtenances, or other hazards to the public.

Open space, public means an open space area conveyed or otherwise dedicated to the Town for public recreational or conservation uses. Public opens spaces are to be unencumbered by oil and gas wells, their appurtenances or other hazards to the public.

Open Water means a body of water, such as a pond or reservoir, whether existing or created and whether for purposes of water storage, aesthetic, or recreation, that has an adequate physical and legal water supply to maintain the open water condition year round, and that has been accepted by the Town for Open Water land use.

Outdoor light fixture means when an outdoor illuminating device, outdoor lighting or reflective surface, luminous tube, lamp or similar device, permanently installed or portable, used for illumination, decoration, or advertisement. Such devices include, but are not limited to, lights used for:

a. parking lot lighting;
b. roadway lighting;
c. buildings and structures;
d. recreational areas;
e. landscape lighting;
f. billboards and other signs (advertising or other);
g. product display area lighting;
h. building or structure decoration; or
i. building overhangs and open canopies.

Outdoor storage means the keeping, in an unenclosed area, of any equipment, goods, junk, material, merchandise or vehicles, including boats, RV's and trailers, in the same place for more than 24 hours. Containers may not be permitted for use as permanent storage or building purposes without site plan and/or building permit approval.

Outlot means an area of land, created through the subdivision process that is not a building lot and for which no building permit shall be issued. An outlot is typically held in common ownership by a homeowner's association or similar and ~~is~~ reserved for open space and other public purposes such as utility and/or drainage easements. Also refer to the definition of Lot and Tract.

~~*Overall Development Plan (ODP)* means a development plan that shows how an entire site is proposed for development and which may be processed as a Planned Unit Development in accordance with the previous Land Development Code.~~

Owner means any person who alone, jointly or severally with others, or as an agent, trustee, executor or other representative capacity, has legal or equitable title to any property.

Parapet means a low, protective wall at the edge of a terrace, balcony or roof, especially that part of an exterior wall, fire wall, or party wall that rises above the roof.

Parcel means any legally described piece of land under common ownership, whether or not it is platted into one or more lots developed for a single use. A parcel is often created by a subdivision, deed, or other instrument recorded with the appropriate recorder. A parcel may be a Lot, Tract or Outlot or a combination thereof.

~~*Parcel* means a tract or plot of land.~~

Park means an area open to the general public and reserved and usable for recreational, educational or scenic purposes.

~~*Park, pocket* means an approximately one-half acre park including playground equipment that is developed,~~

~~owned and maintained by persons other than the Town of Berthoud.~~

Parking area (off-street) means all off-street areas and spaces designed, used, required or intended to be used for the parking, storage, maintenance, service, repair, display or operation of motor vehicles, including driveways or access ways in and to such areas, but not including any outdoor storage area used principally as a "recreational vehicle, boat or truck storage" use, storage areas for landscaping and other bulk items or public streets and rights-of-way.

Parking garage means an off-street parking area within a building.

Parking lot means an outdoor off-street parking area or vehicular use area.

Parking space means an area of at least 200 square feet with dimensions of ten feet by 20 feet exclusive of driveways, aisles or maneuvering areas. All parking spaces shall have direct unobstructed access to a street, drive aisle or alley.

Parkway means that portion of the public right-of-way between the curb line and the adjoining property line.

Partially shielded light means when the bulb of the fixture is shielded by a translucent siding and the bulb is not visible at all. Light may be emitted at the horizontal level of the bulb.

Passenger terminal or *park-n-ride* means a parking lot with public transport connections that allows commuters to leave their vehicles and transfer to a bus, rail system (rapid transit, light rail, or commuter rail), or carpool.

Pergola is a structure of parallel colonnades supporting an open roof of beams and crossing rafters or trellis work.

Permanent monument means any structure of masonry and/or metal permanently placed on or in the ground, including those expressly placed for surveying reference.

Person means a natural person, joint venture, stock company, partnership, association, club, company, corporation, business, trust or organization or the manager, lessee, agent, representative, officer or employee of any of the foregoing entities, acting as a unit.

Personal and business service shops means shops primarily engaged in providing services generally involving the care of the person or such person's appearance or rendering services to business establishments such as laundry or dry-cleaning retail outlets, portrait/photographic studios, beauty or barber shops, employment service, or mailing and copy shops.

Phase means a portion of property that is being platted and engineered for development at one time.

Pilaster means a rectangular support or pier treated architecturally as a column, with a base shaft and capital.

Planned Unit Development (PUD) Overlay means an overlay zone that may be used to modify permitted or conditional land uses and specific standards including lot size, building bulk, gross density, and lot coverage or floor area ratios. The ~~A~~ PUD overlay is not a recognized development method in the Town of Berthod as of the adoption of Ordinance 1329 See the Zoning Section of this Chapter for additional information regarding existing PUD Districts. ~~may only be used to modify the existing zoning of a parcel~~.

Places of assembly (neighborhood scale) means a facility smaller than 5,000 square feet in size used for social, educational, worship or recreational purposes.

Place of assembly (medium) means a facility, greater than 5,000 square feet and less than 15,000 square feet in size used for social, educational, worship, or recreational purposes.

Places of assembly (large) means a facility greater than 15,000 square feet in size used for social, educational, worship or recreational purposes.

~~*Places of assembly (small neighborhood scale)* means a facility, less than 25,000 square feet in size, for social, educational, worship, or recreational purposes primarily for members and their guests any structure or place wherein worship, ceremonies, rituals, and education are held in pace less than 25,000 square feet in size.~~

~~*Places of assembly (large community scale)* means a facility, larger than 25,000 square feet, for social, educational, worship, or recreational purposes primarily for members and their guests .any structure or building larger than 25,000 square feet in size wherein worship, ceremonies, rituals, and education are held.~~

Plant nursery and greenhouse means any land or structure used primarily to raise trees, shrubs, flowers or other plants for sale or for transplanting.

Plat means a map of certain described land showing property and lot boundaries, location of public utilities, easements and other information prepared in accordance with the requirements of this Code, approved by the Town and recorded in the records of the respective County Clerk and Recorder.

~~*Preliminary Development Plan (PDP)* means a development review process under previous versions of the Land Development Code.~~

Preliminary Plat means a development review process outlined in this Chapter.

Prime farmland means land that has the best combination of physical, water supply and chemical characteristics for producing food, feed, forage, fiber and oilseed crops, and other agricultural crops with minimum inputs of fuel, fertilizer, pesticides, and labor and without intolerable soil erosion, as determined by the Secretary of Agriculture. Prime farmland includes land that possesses the above characteristics but is being used currently to produce livestock and timber. It does not include land already in or committed to urban development or water storage.

Principal use means the main use of land or of a structure as distinguished from a subordinate or accessory use.

Private school means a school that does not derive its support, in whole or in part, from moneys raised by a city, town, state, county, or school district tax.

Professional office means an office for professionals such as physicians, dentists, lawyers, architects, engineers, artists, musicians, designers, teachers, accountants and others who through training are qualified to perform services of a professional nature and where no storage or sale of merchandise exists, except as accessory to the professional services.

Program deficiency means a defect in a community's floodplain management regulations or administrative procedures that impairs effective implementation of those floodplain management regulations or of the National Flood Insurance Program standards.

Proof of ownership means ownership as specified in a current title insurance commitment, title policy, certification of title issued by a title insurance company licensed by the State of Colorado or recorded deed or copy of current property taxes.

Property means all real property subject to development regulation by the Town.

Property line means the boundary of any lot, parcel or tract as the same is described in the conveyance of such

property to the owner; and does not include the streets or alleys upon which the said lot, parcel or tract abuts.

Property Owner for purposes of the Use Specific Standards for Short Term Rentals means a person who owns property, and any person related to the property owner

Public areas means streets, parks, open spaces and other property designated or described for public use on a map or plat approved by the Town and for which fee title is vested in the Town or other public entity.

Public facilities means those constructed facilities, including but not limited to, transportation systems or facilities, water systems or facilities, wastewater systems or facilities, storm drainage systems or facilities, fire, police and emergency systems or facilities, electric, gas, telecommunication utilities or facilities, and publicly owned buildings or facilities.

Public hearing means a meeting called by the Board of Trustees, Planning Commission, or the Board of Adjustment for which public notice has been given and which is held in a place at which interested parties may attend to hear issues and to express their opinions.

Public improvement means any drainage ditch, roadway, parkway, sidewalk, pedestrian way, tree lawn, landscaped open space, off-street parking area, lot improvement or other facility which benefits the public.

Public school means a school that derives all or a portion of its support from moneys raised by a general state, county or school district tax and is controlled and operated by the Thompson R2J or Weld County School District.

Public utility means a common carrier supplying electricity, wire telephone service, natural gas, water, wastewater or storm water service or similar public services, but shall not include railroads or other forms of rail mass transit or depots or terminals supporting the same; or wireless telecommunication facilities. A public utility includes main lines, transmission lines and substations.

Push cart means a mobile vending cart, pushcart or trailer that is not motorized or attached to a vehicle for towing and that does not exceed ten feet in length, four feet in width or eight feet in height. A pushcart may be used to cook and prepare food for vending or to serve commissary prepared, ready-to-eat or packaged food in individual servings.

Raw water means water rights acceptable to the Town for domestic purposes after treatment, or water rights acceptable to the Town that may be used for irrigation of public facilities.

Raw Water Credit means the number of S.F.E.s for which dedication credits are certified by the Town in exchange for cash in lieu of water dedication payments or water rights dedications to the Town.

Recessed light means when a light is built into a structure or portion of a structure such that the light is fully cut-off and no part of the light extends or protrudes beyond the underside of a structure or portion of a structure.

Recreational vehicle (RV) means a vehicle primarily designed as temporary living quarters for recreational, camping or travel use, which either has its own motive power or is drawn by another vehicle. The following shall be considered a recreational vehicle:

a. *Camping trailer* or *tent trailer* means a folding structure, constructed of canvas, plastic or similar water repellent material designed to be mounted on wheels and designed for travel and recreation.
b. *Motorized camper, motor home, recreational conversion van* or *bus* means a recreational vehicle consisting of a portable, temporary dwelling to be used for travel, recreation and vacation uses, and constructed as an integral part of a self-propelled vehicle.
c. *Pick-up camper* means an enclosure designed to be mounted on or loaded into a pick-up truck chassis for use as a temporary dwelling for travel and recreation.

d. A *tent*, meaning a portable or temporary cover or shelter, with or without side panels, which is supported by poles and is made of canvas, plastic or similar materials.
e. A *travel trailer*, meaning a towed vehicle designed as a temporary dwelling for travel and recreation. Travel trailer, self-contained, means a trailer which can operate independently of connections to sewer, water and electric systems. It contains a water-flushed toilet, lavatory, shower or bath and kitchen sink, all of which are connected to water storage and sewage holding tanks located within the trailer.

Recreational vehicle park means a parcel of land specifically developed for locating only recreational vehicles on lots on a short-term basis.

~~*Recreational vehicle site* means a plot of ground within a recreational vehicle park intended for the accommodation of a recreational vehicle, tent or other individual camping unit on a temporary basis.~~

Recycling facility means a building or lot used for the collection and/or processing of recyclable material. Processing shall mean the preparation of material for efficient shipment by such means as baling, compacting, flattening, grinding, crushing, mechanical sorting or cleaning. Such a facility, if entirely enclosed within a building or buildings, shall be considered a warehouse.

Redevelopment means any proposed expansion, addition, or major façade change to an existing building, structure, or property.

Related to means, with respect to a natural person, the spouse of the individual; the domestic partner of an individual,- a brother, brother-in-law, sister, or sister-in-law of the individual;- an ancestor or lineal descendant of the individual or the individual's spouse or domestic partner;- and any other relative, by blood or marriage, of the individual or the individual's spouse or domestic partner who shares the same home with the individual

Related to means, with respect to a business entity, if a partnership, all the partners of the partnership who are making an application for a license under this article. If any other type of business entity, all the officers, directors, and owners of at least ten percent of the entity making an application for a license under this article

~~*Places of assembly (neighborhood scale)* means any structure or place wherein worship, ceremonies, rituals, , and education are held in a space less than 25,000 square feet in size.~~

~~*Places of assembly (large) community scale)* means any structure or building larger than 215,000 square feet in size wherein worship, ceremonies, rituals, and education are held.~~

Research facilities means a building or lot used for research, development, testing, manufacturing, assembling, repair of goods and products. The facilities shall be free of dust, smoke, fumes, odors or unusual vibrations and noise. The waste shall meet the requirements of the appropriate health authority.

Resource extraction, processing and sales means removal or recovery by any means whatsoever of sand, gravel, soil, rock, minerals, mineral substances or organic substances other than vegetation, from water or land on or beneath the surface thereof, exposed or submerged.

Restaurant, drive-through means any establishment in which the principal business is the sale of foods and beverages to the customer in a ready-to-consume state and in which the design or principal method of operation of all or any portion of the business is to allow food or beverages to be served directly to the customer in a motor vehicle without the need for the customer to exit the motor vehicle.

Restaurant, fast food means any establishment in which the principal business is the sale of food and beverages to the customer in a ready-to-consume state, and in which the design or principal method of operation includes the following characteristics.
a. Food and beverages are usually served in paper, plastic or other disposable containers;

b. The consumption of food and beverages is encouraged or permitted within the restaurant building, within a motor vehicle parked upon the premises, or at other facilities on the premises outside the restaurant building; or the food and beverages are available for carry-out or pick up from drive-through facilities.

Restaurant, standard means any establishment in which the principal business is the sale of food and beverages to customers in a ready-to-consume state; where fermented malt beverages, and/or malt, special malt or vinous and spirituous liquors may be produced on the premises as an accessory use; and where the design or principal method of operation includes one or both of the following characteristics:

a. Customers are served their food and/or beverages by a restaurant employee at the same table or counter at which the items are consumed; or
b. Customers are served their food and/or beverages by means of a cafeteria-type operation where the food or beverages are consumed within the restaurant building.

Rest stop means a roadside facility safely removed from traffic with parking and such facilities for motorists including information and restrooms.

Resubdivision means the changing of any existing lot or lots, street rights-of-way or easements of a subdivision plat previously recorded with the Larimer or Weld County Clerk and Recorder.

Retail establishment, large means a retail establishment, or any combination of retail establishments in a single building, occupying a total of more than 50,000 gross square feet of floor area, except that no supermarket shall be deemed to be a large retail establishment.

Retail establishment, small means a retail establishment, or any combination of retail establishments in a single building, occupying a less than 50,000 gross square feet of floor area.

Retail and supply yard establishments with outdoor storage means any use where building supply products such as lumber or landscape materials are offered for sale, and are displayed and stored in an unenclosed area.

Retention basin means a pond, pool or basin used for permanent storage of water runoff.

Right-of-way means a strip of land occupied or intended to be occupied by a street, crosswalk, railroad, road, electric transmission line, oil or gas pipeline, water main, sanitary or storm sewer main, irrigation ditch or for another special use. The usage of the term "right-of-way" for land platting purposes shall mean that every right-of-way established and shown on a final plat is to be separate and distinct from the lots or parcels adjoining such right-of-way and not included within the dimensions of such lots or parcels. Rights-of-way intended for streets, crosswalks, water mains, sanitary sewers, storm drains, or any other use involving maintenance by a public agency shall be dedicated to that public use on the plat on which such right-of-way is established.

Roadside or temporary retail stand/tent means a temporary structure not permanently affixed to the ground and is readily removable in its entirety, which is used solely for the display or sale of farm products produced on the premises upon which such roadside stand is located. There shall be no more than one roadside stand on any one property. A building permit is required as necessary.

Roof, gable means a roof sloping downward in two parts from a central ridge, so as to form a gable at each end.

Roof, hip means a roof having sloping ends and sides meeting at an inclined projecting angle.

Sales of farm implements, heavy equipment, mobile/manufactured homes – An establishment for the sale of farm implements, heavy equipment or manufactured homes without repair facilities.

Salvage or *wrecking yard* means a place where motor vehicles and parts are wrecked, disassembled, repaired and resold, a place where secondhand goods including waste paper, bottles, automobile tires, clothing, other

scrap materials, and salvage are collected to be stored and a place where used lumber and used building materials are stored for sale or resale.

Sanitary facilities mean toilets, urinals, lavatories, showers, utility sinks and drinking fountains, and the service buildings containing these units.

Sanitary waste station means a facility used for removing and disposing of waste from self-contained camping vehicle sewage holding tanks.

Schools, public and private (preschool – grade 12) means an institution for the teaching of children on a site that is operated as a school, and which contains all improvements required by local, state or federal regulations necessary for general academic instruction.

Schools, including colleges, vocational and technical training means an institution for the teaching of adults including colleges, professional schools, dance schools, business schools, trade schools, art schools, and similar facilities on a site that is operated as a school, and which contains all improvements required by local, state, or federal regulations necessary for general academic instruction.

Searchlight means an apparatus used to project a beam of light.

Service building means a structure housing toilet, lavatory, bath, laundry, service sink and other such sanitary facilities as may be required.

Setback means the required unoccupied space between the nearest projection of a structure and the property line of the lot on which the structure is located. Setback is measured from the lot line.

Setback, front yard means the distance a building or structure must be placed from the front lot line.

Setback, rear yard means the distance a building or structure must be placed from the rear lot line.

Setback, side yard means the distance a building or structure must be placed from the side lot line.

Sexually-oriented or *adult-oriented use* means a use of property where the principal use, or a significant or substantial adjunct to another use of the property, is the sale, rental, display or other offering of live entertainment, dancing or material which is distinguished or characterized by its emphasis on depicting, exhibiting, describing or relating to "specified sexual activities" or "specified anatomical areas" as the primary attraction to the premises, including, but not limited to:

a. *Adult arcade* means any place to which the public is permitted or invited wherein coin-operated or slug-operated or electronically, electrically or mechanically controlled still or motion picture machines, projectors or other image-producing devices are maintained to show images to five or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by the depicting or describing of specified sexual activities or specified anatomical areas.
b. *Adult bookstore, adult novelty store* or *adult video* means a commercial establishment which devotes a significant or substantial portion of its stock-in-trade or interior floor space to, or has as one of its principal business purposes, the sale, rental or viewing, for any form of consideration, of (a) any books, magazines, periodicals or other printed matter or photographs, films, motion pictures, videocassettes, slides, or other visual representations which are characterized by the depiction or description of specified sexual activities or specified anatomical areas, or (b) any instruments, devices or items which are designed or intended for use with or in specified sexual activities.
c. *Adult cabaret* means a nightclub, bar, restaurant, concert hall, auditorium or similar commercial establishment which features:
    i. Persons who appear in a state of nudity;

ii. Live performances which are characterized by the exposure of specified anatomical areas or by specified sexual activities; or

iii. Films, motion pictures, video cassettes, slides or other photographic reproductions which are characterized by the depiction or description of specified sexual activities or specified anatomical areas.

d. *Adult motel* means a hotel, motel or similar commercial establishment which offers private rooms to the public and provides patrons live performances or closed-circuit television transmissions, films, motion pictures, video cassettes, slides or other photographic reproductions which are characterized by the depiction or description of specified sexual activities or specified anatomical areas and has a sign visible from a public right-of-way which advertises the availability of this adult type of photographic reproductions.

e. *Adult motion picture theater* means a commercial establishment which is distinguished or characterized by showing of films, motion pictures, videocassettes, slides or similar photographic reproductions with an emphasis on depicting or describing specified sexual activities or specified anatomical areas which are regularly shown for any form of consideration.

f. *Adult theater* means a theater, concert hall, auditorium or similar business which, for any form of consideration, regularly features persons who appear in a state of nudity or live performances which are characterized by the exposure of specified anatomical areas or by specified sexual activities.

g. *Adult photo studio* means any establishment which, upon payment of a fee, provides photographic equipment and/or models for the purpose of photographing "specified anatomical areas."

h. *Commercial establishment with respect to the regulation of sexually oriented businesses* may have other principal business purposes that do not involve the depicting or describing of specified sexual activities or specified anatomical areas and still be categorized as a sexually oriented business. Such other business purposes will not serve to exempt such commercial establishments from being categorized as a sexually oriented business so long as one of its principal business purposes is the offering for sale or rental for consideration the specified materials which depict or describe specified sexual activities or specified anatomical areas. The term commercial establishment includes clubs, fraternal organizations, social organizations, civic organizations or other similar organizations with paid memberships.

i. *Nude model studio* means any place where a person who appears in a state of nudity or displays specified anatomical areas is provided for money or any form of consideration to be observed, sketched, drawn, painted, sculpted, photographed or similarly depicted by other persons.

j. *Nudity or state of nudity* means:

i. The appearance of human bare buttock, anus, male genitals, female genitals or the areola or nipple of the female breast; or

ii. A state of dress which fails to opaquely and fully cover human buttocks, anus, male or female genitals, pubic region or areola or nipple of the female breast.

k. *Peep booth* means a viewing room, other than a private room, of less than 150 square feet of floor space upon the premises of a sexually oriented business where there are exhibited photographs, films, motion pictures, video cassettes or other video reproductions, slides or other visual representations which depict or describe specified sexual activities or specified anatomical areas.

l. *Private room* means a room in an adult motel that is not a peep booth, has a bed in the room, has a bath in the room or adjacent to the room, and is used primarily for lodging

m. *Sexual encounter establishment* means a business or commercial establishment which, as one of its primary business purposes, offers for any form of consideration, a place where two or more persons may congregate, associate or consort for the purpose of specified sexual activities or the exposure of specified anatomical areas, when one or more of the persons exposes any specified anatomical area.

n. *Sexually oriented business* means an adult arcade, adult bookstore, adult video store, adult cabaret, adult motel, adult motion picture theater, adult theater, nude model studio, sexual encounter establishment or other similar business and includes:

i. The opening or commencement of any sexually oriented business as a new business;

ii. The conversion of an existing business, whether or not a sexually oriented business, to a sexually oriented business;

iii. The addition of any sexually oriented business to any other existing sexually oriented business;

iv. The relocation of any sexually oriented business; or

v. The continuation of a sexually oriented business in existence on the effective date of the initial ordinance codified herein.

o. *Specified anatomical areas* means:
   i. Less than completely and opaquely covered: human genitals, pubic region, buttocks, and female breast below a point above the top of the areola.
   ii. Human male genitals in a discernibly turgid state even if completely and opaquely covered.

p. *Specified sexual activities* means acts, simulated acts, exhibitions, representation, depictions or descriptions of:
   i. Human genitals in a state of sexual stimulation or arousal.
   ii. Fondling or other erotic touching of human genitals, pubic region, buttocks or female breast.
   iii. Intrusion, however slight, of any object, any part of an animal's body, or any part of a person's body into the genital or anal openings of any person's body or into the body of an animal.
   iv. Cunnilingus, fellatio, anilingus, masturbation, bestiality, lewd exhibition of genitals or excretory function.
   v. Flagellation, mutilation or torture for purposes of sexual arousal, gratification or abuse.

q. *Stage* means a raised floor or platform at least three feet above the surrounding floor measured perpendicularly from the edge of the stage to the surrounding floor and at least 36 square feet in area.

Shielded light means when the light emitted from the fixture is projected below a horizontal plane running through the lowest point of the fixture where light is emitted. The bulb is not visible with a shielded light fixture, and no light is emitted from the sides of the fixture. Also considered a full cut-off fixture.

Shopping center means a group of retail and service establishments located in a complex which is planned, developed, owned or managed as a unit, with off-street parking provided on the property.

Side loaded garage means a garage that is oriented so that the garage doors are perpendicular to the front street.

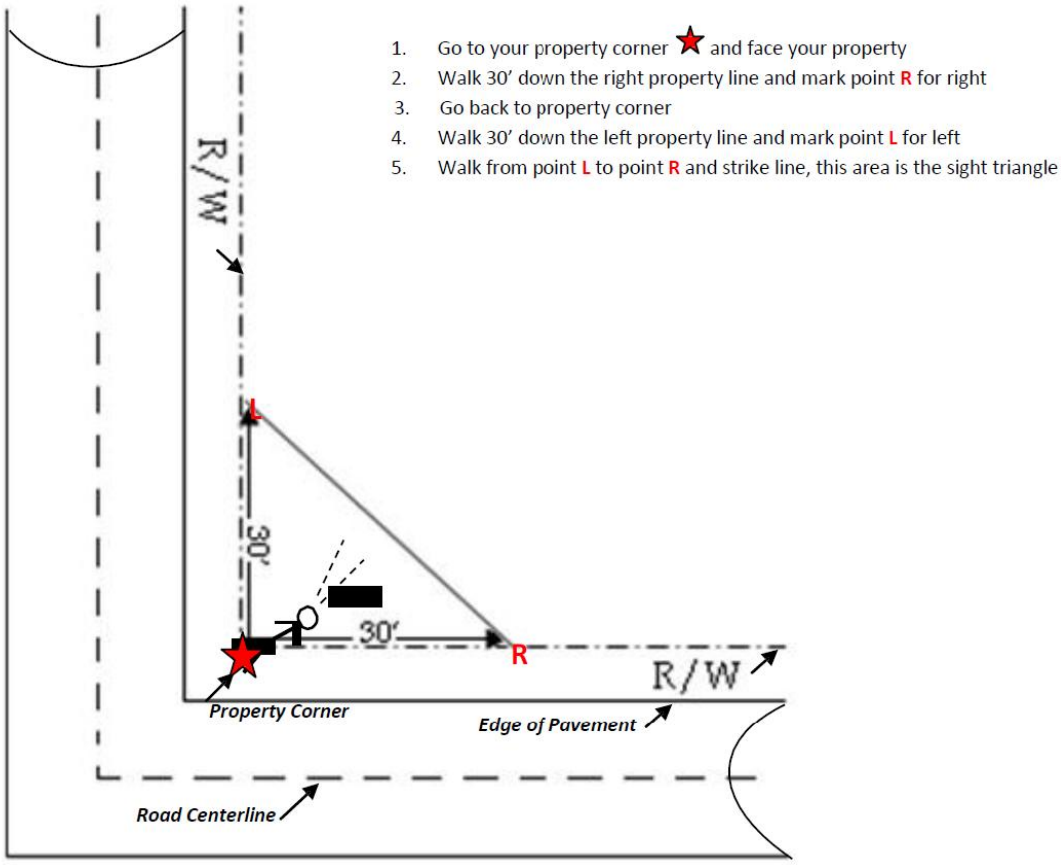
Sidewalk means the hard surface path within the street right-of-way for use by pedestrians and/or bicyclists.

Short-term Rental means a principal dwelling rented to transient guests who are part of one party for short-term lodging (30 days or less) when not occupied by the owner/operator. The term “party” as used in this definition shall mean one or more persons who stay at a short-term rental as a single group pursuant to a single reservation and payment.

a. Maximum Number of Guests: A Short-term Rental shall be limited to 10 or fewer guests who are part of one party or single group of renters.

Sight distance triangle means the area defined by the intersection of any two right-of-way lines of streets or railroads and a straight line intersecting those two right-of-way lines at points 30 feet from the intersection, no obstruction to vision between a height of two and one-half feet and 12 feet above the imaginary plane defined by those three points of intersection permitted, at the plane of the street. This includes structures, walls, fences, shrubbery or trees except that shade trees will be permitted where all branches are not less than eight feet above the street level.

Simple directions to find sight triangle:



Sign means any device that is sufficiently visible to persons not located on the lot where the device is located, affixed or placed on a structure, land, or produced by painting on or posting or placing ~~anypainted~~any painted, lettered, pictured, figured or colored material on any building structure or surface.~~.~~

Sign, abandoned means a sign, including sign face and supporting structure which is unsafe, constitutes a hazard to safety or health by reason of inadequate maintenance, dilapidation, or obsolescence and/or is not kept in good repair; or which contains no sign copy on all sign faces for a continuous period of three months.

Sign, animated means a sign having an intermittent or continuing variation in the physical position of any part of the device, except such variations necessary for displaying time-of-day information or temperature information.

Sign, awning means a sign which is painted, stitched, sewn or stained onto the exterior of an awning.

Sign, banner means any sign intended to be hung either with or without frames, possessing characters, letter, illustrations or ornamentations applied to paper, plastic, vinyl or fabric of any kind.

Sign, canopy means a sign that is permanently affixed to a roofed shelter attached to and supported by a building, by columns extending from the ground or by a combination of a building and columns.

Sign, directional means any sign that is designed and erected for the purpose of providing direction and/or orientation for pedestrian or vehicular traffic.

Sign, handheld means a temporary sign held, suspended or supported by a person. Handheld signs do not include handheld signs used for traffic control or safety purposes. Also known as a human directional, sign spinner, sign twirler or sign twister sign.

Sign, incidental means a small sign affixed to a residential or non-residential building or structure, machine, equipment, fence, gate, wall, gasoline pump, public telephone, or utility cabinet.

Sign, monument means a permanent freestanding sign supported by, or integrated into a base or pedestal at least two-thirds the dimension of the width and thickness of the sign it supports.

Sign, freestanding means a sign which is supported by one or more columns, uprights, poles or braces extended from the ground, or which is erected on the ground.

Sign, off-premises means a sign advertising a business, person, activity, good, products or services not Provided on the site upon which the sign is located, or that directs persons to any location not on that site.

Sign, permanent means any sign constructed of durable materials and affixed, lettered, attached to or placed upon a fixed, non-movable, non-portable supporting structure.

Sign, projecting means a sign supported by a building wall and projecting more than 12 inches from that wall. Also known as a blade sign.

Sign, public means a sign erected by the Town or by any federal, state or county government agency, including but not limited to traffic control and safety signs.

Sign, roof means a sign erected above the highest point of the coping of a flat roof; or to the deck line of a mansard roof; or to the average height of a gable, pitched or hipped roof. Also, any sign mounted on a pitched or sloping wall and extending higher than the lowest portion of the adjoining roof shall constitute a roof sign.

Sign, sidewalk means a movable advertising or business ground side constructed in such a manner as to form an "A" or a tent-like shape, hinged or not hinged at the top, with each angular face held at an appropriate distance by a supporting member.

Sign, site means a temporary freestanding sign constructed of vinyl, plastic, wood or metal and designed or intended to be displayed for a limited period of time on a site with an active listing for sale or for rent, or on properties with active building permits, e.g., a construction site.

Sign, special event means a temporary sign directing attention to an activity of limited duration.

Sign, temporary means any sign based upon its materials, location and/or means of construction, e.g., light fabric, cardboard, wallboard, plywood, paper or other light materials, with or without a frame, intended or designed to be displayed for a limited period of time.

Sign, time and/or temperature means a sign displaying the time and/or temperature and capable of being viewed from any public right-of-way, parking area, or neighboring property.

Sign, vehicular means a sign displayed on a truck, bus, trailer or other vehicle which is being operated or stored in the normal course of a business, such as signs which are located on moving vans, delivery trucks, rental trucks and trailers and the like, provided the primary purpose of such vehicles is not for the display of signs and provided they are parked or stored in areas appropriate to their use as vehicles.

Sign, wall means any sign printed on, painted on, incorporated in or affixed to the building wall, or any sign

consisting of cut-out letters or devices affixed to the building wall with no background defined on the sign other than the building wall itself.

Sign, wall accessory means a sign that has less importance and prominence than the main sign on the wall in size, location, and design emphasis.

Sign, window means a sign that is painted on, applied or attached to a window or that can be read through the window from the public right-of-way.

Sign, yard means a temporary freestanding sign constructed of paper, vinyl, plastic, wood, metal or other comparable material, and designed or intended to be displayed for a limited period of time on a lot containing one or more existing permanent structures.

Significant wildlife habitat and migration corridors are areas designated by the Colorado Division of Wildlife and/or the Colorado Natural Diversity Information Source (www.ndis.nrel.colostate.edu) as areas of landscape that provide food, cover and water sufficient to meet the needs of a given species to survive and reproduce.

Single Family Equivalent Unit ("SFE" or S.F.E.") means a number related to the volume of water necessary to meet the demand and use requirements including systems losses and consumptive use requirements, of an average single family dwelling unit. Further information is found in the Water Right Dedication Requirements Section of this Code. ~~which is defined herein as 0.4 acre feet. An S.F.E. shall be defined as 0.4 acre feet for all purposes. The S.F.E. unit value assigned to such average dwelling unit is 1.0.~~

Single room occupancy boarding house means a housing type consisting of one room, often with cooking facilities and with private or shared bathroom facilities.

Site plan means a scale drawing of a lot, showing the actual measurements, the size and location of any existing or proposed buildings, the location of the lot in relation to abutting streets, and other details such as parking areas, access points, landscaped area, building areas, setbacks from lot lines, building heights, floor areas, densities, utility locations, and easements.

Site specific development plan shall mean and be limited to the Final Plat of a subdivision, ~~Conveyance Plat,~~ or a ~~Final Development Plan of a PUD, or a Site Plan~~ a Use by Special Review when approved as a site specific development plan by the Planning Commission or Board.

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Split garages means having at least two separate garages that are oriented in different directions.

Spotlight or *floodlight* means any lamp that incorporates a reflector or a refractor to concentrate the light output into a directed beam in a particular direction (see definition for floodlight).

Staff means a full or part-time employee of the Town. Staff may also include professional firms and/or persons

designated by the Town to act within a certain capacity including legal, engineering, planning, code enforcement, inspection and other professional fields.

Start of construction for structures means the date the building permit was issued, provided that the actual start of construction, repair, reconstruction, placement or other improvement was within 180 days of the building permit issuance date. The actual start means the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure.

Start of construction except for start of construction for structures means the date the grading permit was issued, provided that the actual start of construction means the first activities of land preparation, such as clearing, grading and filling, installation of streets and/or walkways.

Storage facilities, enclosed means a building or a group of buildings, not consisting of containers as defined herein, comprised of separate, individual self-storage units divided from the floor to ceiling by walls, each with an independent entrance from the exterior of the building and that are designed to be rented or leased on a short-term basis to the general public for private storage of personal goods, materials and equipment.

Storage facilities, outdoor means property for use as storage for RV's, boats, trailers, etc. outdoors screened from adjacent properties. The facility shall be free of dust, smoke, fumes, odors, or unusual vibrations and noise. There shall be no waste disposal on site.

Street means a public thoroughfare which affords the principal means of vehicular access to abutting property. The term includes public or private streets.

Street, arterial means a street as described in the Design Standards section of this Chapter.

Street, collector means a street as described in the Design Standards section of this Chapter.

Street, local means a street as described in the Design Standards section of this Chapter.

Street, rural means a street as described in the Design Standards section of this Chapter.

Street furniture means constructed objects, such as outdoor seating, kiosks, bus shelters, sculpture, tree grids, trash receptacles, fountains and telephone booths, that have the potential for enlivening and giving variety to streets, sidewalks, plazas, and other outdoor spaces open to and used by the public.

Streetscape means the distinguishing character of a particular street, within the public right-of-way, including paved materials, and the adjacent space extending along both sides of a street including landscaping, sidewalks, medians, lighting, street furniture, and signage.

Structure means a combination of materials to form a construction for use, occupancy or ornamentation whether installed on, above or below the surface of land or water.

Subdivider or *developer* means any person, partnership, joint venture, limited liability company, association or corporation who participates as owner, promoter, developer or sales agent in the planning, platting, development, promotion, sale, or lease of a development.

Subdivision means the platting of a lot or the division of a lot, tract or parcel of land into two or more lots, plots or sites.

Subsidence means a local mass movement that involves the downward settling or sinking of the solid Earth's surface. Subsidence may be due to natural geologic processes or man's activity such as coal mining.

Substantial damage means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would be equal to, or exceed, 50 percent of the market value of the structure before it was damaged.

Substantial improvement means any repair, reconstruction or improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure either:

a. Before the improvement or repair is started; or
b. If the structure has been damaged and is being restored, before the damage occurred.
c. For the purpose of this definition, substantial improvement is considered to occur when the first alteration of any wall, ceiling, floor or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. Substantial improvements shall be calculated cumulatively over a period of the previous ten years.

The term does not, however, include either:

d. Any project for improvement of a structure to comply with existing state or local health, sanitary or safety code specifications which are solely necessary to assure safe living conditions; or
e. Any alteration of a structure listed on the National Register of Historic Places or the State Inventory of Historic Places.

Supplemental Irrigation Water means additional potable water which will be required for irrigation at times when water is not available through a non-potable irrigation system.

Swing-in garage means a garage that is oriented so that the garage doors are perpendicular to the street.

Tandem garage means a garage that allows for the parking of one car in front of another.

Tandem parking means parking two cars in a driveway or parking space so that one car is right in front of the other and the front car cannot move until the back car is moved.

Tavern see "Bar or tavern".

Technical Review Committee (TRC) means the committee established to review development proposals and subdivision applications on behalf of the Town.

Temporary business or use means a business or use commonly recognized as being conducted for regularly scheduled or occurring portions of a year — not to exceed four consecutive months. Examples of a temporary business or use include, but are not limited to, Christmas tree sale lots, farmer's markets, circuses, carnivals, new home sales operations, etc. and shall obtain a vendor license, as applicable. A temporary business or use shall not include continuing a nonconforming building or use.

Temporary directional sign means a free-standing sign giving direction to an open house, house for sale, garage sale or a temporary business.

Temporary lighting means lighting that is intended to be used for a special event for seven days or less.

Title commitment means formal documentation from a title insurance company licensed by the State of Colorado listing the name of the owner of the property under consideration, the legal description of the property and any encumbrances of the property such as easements, rights-of-way, liens, or mineral interests.

Tourist facility means an establishment set up to primarily provide local tourist information to visitors.

Town means the Town of Berthoud, a municipal corporation of the State of Colorado. The Town may act through the Board or an official of the Town specifically authorized to perform the act.

Town Administrator means the Town Administrator of the Town of Berthoud, Colorado.

Tract means an area of land, created through the subdivision process that can be legally sold but cannot be developed until further legal subdivision. Tracts are typically identified for future development or investment purposes. Also refer to the definition of Lot and Outlot.

Tree strip~~lawn~~ means a strip of landscaping within the right-of-way, generally between the street and an adjacent sidewalk.

Truck depot means an establishment engaged primarily in the fueling, servicing, repair or parking of tractor trucks or similar heavy commercial vehicles, including the sale of accessories and equipment for such vehicles. A truck stop may also include overnight accommodations, showers or restaurant facilities primarily for the use of truck crews.

Undermining means land that has been mined under the surface of the ground.

Uplighting means lighting that is directed in such a manner as to shine light rays above the horizontal plane.

Use by right means a use that is permitted by the zoning district regulations per the Land Use Table found in this Chapter.

USGS datum means United States Geological Survey basis of elevations.

Vacant land means land that does not have structures or other development on it.

Variance means a grant of relief from the requirements of this Code which permits construction in a manner that would otherwise be prohibited by this Code.

Vegetation means plants growing in a place, including, but not limited to trees, shrubs, vines, grasses, and groundcover.

Vehicle trip means a single or one-way vehicle movement to or from a property or study area. Vehicle trips can be added together to calculate the total number of vehicles expected to enter and leave a specific development or site over a designated period of time.

Vested property right means the right to undertake and complete the development and use of property under the terms and conditions of a site specific development plan approved as provided in this Code.

Veterinary hospital means any facility which is maintained by or for the use of a licensed veterinarian in the diagnosis, treatment or prevention of animal diseases.

Veterinary facilities, small animal clinic means any facility maintained by or for the use of a licensed veterinarian in the diagnosis, treatment or prevention of animal diseases wherein the animals are limited to dogs, cats or other comparable household pets and wherein the overnight care of said animals is prohibited except when necessary in the medical treatment of the animal.

Veterinary facilities, large animal clinic means any facility maintained by or for the use of a licensed veterinarian in the diagnosis, treatment or prevention of animal diseases wherein the animals include those larger than dogs, cats or other comparable household pets, including but not limited to goats, horses, cattle, and others and wherein the overnight care of said animals is prohibited except when necessary in the medical treatment of the animal.

Walkable means a distance of one-fourth mile or within a five to ten minute walk.

Walkway means:

a. A right-of-way dedicated to public use that is not within a street right-of-way, to facilitate pedestrian access through a subdivision block by means of a hard surface path; or
b. Any portion of a parking area restricted to the exclusive use of pedestrian travel.

Walkway, connecting means:

a. Any street sidewalk; or
b. Any walkway that directly connects a building entrance(s) to a sidewalk adjoining a street sidewalk, and connects other origins and destinations for pedestrians, including but not limited to commercial establishments, schools, parks, dwellings, work places and transit stops, without requiring pedestrians to walk across parking lots or driveways, around buildings or following parking lot outlines which are not aligned to a logical route.

Warehouse and distribution means storage, wholesale, and distribution of manufactured products, supplies or equipment, including accessory offices or showrooms, including incidental retail sales, but excluding bulk storage of materials that are inflammable or explosive or that create hazardous or commonly recognized offensive conditions.

Warehousing means a business which stores or stocks merchandise or commodities.

Water right means a decreed right to use in accordance with its priority a certain portion of the waters of the State by reason of the appropriation of the same. It shall include both direct flow and storage rights. Water right shall also be used in the context of water right dedications to include allotment contracts with the Northern Colorado Water Conservancy District and its Municipal Subdistrict.

Water surface elevation means the height, in relation to the NGVD of 1929 (or other datum where specified) of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.

Wetland means lands as defined by Federal standards where there is a transition between terrestrial and aquatic systems, where the water table is usually at or near the surface, or the land is covered by shallow water.

Workshop and custom small industry means a facility wherein goods are produced or repaired by hand, using hand tools or small-scale equipment, including small engine repair, furniture making and restoring, upholstering, restoration of antiques and other art objects, or other similar uses, with or without sales occurring on site.

Yard means that portion of the open area on a lot extending open and unobstructed from the ground upward from a lot line for a depth or width specified by the regulations for the zone district in which the lot is located.

Yard, front means a yard extending across the full width of the lot between the front lot line and the nearest line or point of the building.

Yard, rear means a yard extending across the full width of the lot between the rear lot line and the nearest line or point of the building.

Yard, side means a yard extending from the front yard to the rear yard between the side lot line and the nearest line or point of the building.

Zone district means a zone district of the Town as established in Section 3 of this Chapter, unless the term is used in a context that clearly indicates that the term is meant to include both the zone district(s) of the Town and the zone district(s) of an adjoining governmental jurisdiction. Also referred to as "zoning district."

Zoning map means the official zoning map adopted by the Town by ordinance, as amended.

30-1-122 Public hearing and general notice provisions

A. *Specific purposes.* Public hearings are open meetings conducted by local boards to gather information from the public and to survey public opinion as part of the local rule-making process. Public hearings are required by either the State of Colorado or Town of Berthoud and will be conducted before the Planning Commission, the Board of Trustees, or the Planning Commission acting as the Board of Adjustment as appropriate. Public hearings will be conducted under the following general conditions:

1. Before reviewing an application for a permit that requires a public hearing, said hearing shall be scheduled within a reasonable time as allowed by the schedules of Town officials and staff. Town staff is responsible for the scheduling of all public hearings.

2. Subject to Subsection C below, the hearing shall be open to the public and all persons interested in the outcome of the appeal or application shall be given an opportunity to present evidence and arguments.

3. The Board of Trustees, Planning Commission, or Board of Adjustment conducting the hearing may place reasonable and equitable limitations on the presentation of evidence, arguments and the cross-examination of witnesses.

B. *Public notice requirements.* The Town shall give notice of any public hearing required as provided below. The applicant shall be responsible for all costs of such notice.

1. Where required by statute or ordinance to give notice to surrounding property owners, notice shall be given by mailing a written notice as specified in the Public Hearing and General Notice Provisions Table ~~1.1~~. .

2. Where required by statute or ordinance to give notice to other interested property owners such as mineral interest owners of record, mineral and oil and gas lessees for the property, and appropriate ditch companies, notice shall be given by the applicant by mailing a written notice not later than 15 days before the hearing. The applicant shall provide evidence of mailing to the Town.

3. Where required by statute or ordinance to give notice to other parties of interest or referral agencies, notice shall be given as specified in the Public Hearing and General Notice Provisions Table ~~1.1~~.

4. Where required by statute or ordinance to give notice of annexation hearings to special districts, school districts and Larimer or Weld County Commissioners and the Larimer or Weld County Attorney, notice shall be given as specified in the Public Hearing and General Notice Provisions Table ~~1.1~~.

5. When required by the notice of public hearing table (Public Hearing and General Notice Provisions Table ~~1.1~~) in this section, the applicant must post a sign along each street frontage of the property. The Town will provide signs when a complete application is made. The applicant is responsible for erecting and maintaining the sign(s) for the time period specified and removing them after the last public hearing. Signs must be placed as near the property line as possible and in a manner that is readily visible from the street or road. Posting the property is a courtesy to the public and the failure of anyone to observe a sign does not invalidate any public hearing. The applicant shall pay a~~A~~ deposit ~~will be collected~~ to cover the cost of replacing the sign. When signs are returned in good condition, the deposit will be refunded.

6. The applicant shall provide (prior to the hearing) an affidavit showing the property was posted within the specified time.

7. The Town shall give notice of any public hearing required as follows:

   a. Notice shall be given to potentially interested persons by publishing a notice one time in a newspaper having general circulation in the area as specified in the Public Hearing and General Notice Provisions Table ~~1.1~~.

   b. This notice shall state the date, time and place of the hearing, reasonably identify the lot, parcel, or property that is the subject of the application or appeal, and give a brief description of the action requested or proposed. Proof of publication shall be made part of the record at the time of the public hearing.

   c. The applicant shall provide the required ~~number of mailing labels and a~~ mailing list and map in a format acceptable to the Town with application materials. The applicant shall certify the source for the mailing list and map. ~~labels.~~

C. *Hearing and notification requirements.* Listed below are the notification requirements in the Town of Berthoud. Abbreviations used below include C.R.S. (Colorado Revised Statutes) and Hearing (Public Hearing). ~~Hearings will be noticed per the Town of Berthoud in most instances, but n~~Notice requirements for annexation must follow provisions of the Colorado Revised Statutes. Mailed notices identified below would normally include notice of both the Planning Commission meeting and Town Board ~~meeting/~~hearing~~s~~ as appropriate.

Public Hearing and General Notice Provisions Table

	Referral agency notice	Hearing	Publication	Mailed notice	Post sign
Annexation	Upon acceptance of application for processing.	Before Planning Commission as regular agenda item. Before Town Board per C.R.S.	4 successive weeks starting at least 30 days prior to Statutory public h~~H~~earing. The Resolution setting the Statutory public hearing shall be published.	Yes, to property owners within 500 feet no less than 25 days and no more than 30 days prior to Statutory Hearing. To Special Districts no less than 25 days prior to Statutory Hearing.	Yes, no less than 30 days prior to Statutory Hearing.
Zoning	Upon acceptance of application for processing.	Before Planning Commission as regular agenda item and Town Board as hearing.	No less than 15 days prior to hearing.	Yes, to property owners within 500 feet sent no less than 15 days prior to Commission meeting.	Yes, no less than 15 days prior to Commission meeting.
Rezoning	Upon acceptance of application for processing.	Before Planning Commission as regular agenda item and Town Board as hearing.	No less than 15 days prior to hearing.	Yes, to property owners within 500 feet ~~area~~ sent no less than 15 days prior to Commission meeting.	Yes, no less than 15 days prior to Commission meeting.
Text Amendment to Development Code ~~(Chapters 10-11)~~		Before Planning Commission as regular item and Town Board as hearing. ~~Before Board as hearing.~~	No less than 15 days prior to Commission~~.~~ meeting. ~~hearing~~.	No.	No.
Neighborhood Master Plan	Upon acceptance of application for processing.	Before ~~both~~ Planning Commission as regular item and Town Board as hearing ~~regular agenda items~~.	No less than 15 days prior to Commission meeting.	Yes, to property owners within 500 feet~~.~~ no less than 15 days prior to Commission meeting.	Yes, no less than 15 days prior to Commission meeting.
Preliminary Plat	Upon acceptance of application for processing.	Before Planning Commission as regular agenda item and Town Board as hearing.	No less than 15 days prior to Commission meeting.	Yes, to property owners within 500 feet no less than 15 days prior to Commission meeting.	Yes, no less than 15 days prior to Commission meeting.
Final Plat or a Replat	Upon acceptance of application for processing.	Administrative approval unless referred to Town Board for vesting or Planning Commission for hearing	No less than 15 days prior to either the Commission meeting Town Board meeting~~.~~	No notice required unless Planning Commission meeting or vesting is requested. If vesting is requested, notice to be sent to property owners within 500 feet no less than 15 days prior to Board meeting.	Upon application acceptance to property owners within 500 feet
Minor Subdivision	Upon acceptance of application for processing.	Before Planning Commission as hearing. No Town Board hearing.	No less than 15 days prior to Commission hearing.	Yes, to property owners within 500 feet no less than 15 days prior to Commission hearing.	Yes, no less than 15 days prior to Commission meeting .
	Amended PUD: Changes to a previously-approved PUD shall follow both the Change of Zone and Neighborhood Master Plan process as found in Chapter 30 and in this Table				
Comprehensive Plan Amendment		Before Planning Commission as regular agenda item ~~as hearing~~ and Town Board as ~~regular~~ hearing ~~agenda item~~.	No less than 15 days prior to Commission ~~hearing.~~meeting.	No	No
~~Text Amendment to Development Code (Chapters 1-9)~~		~~Before Planning Commission as regular item and Town Board as hearing.~~	~~No less than 15 days prior to hearing.~~	~~No.~~	~~No.~~
Variances and Appeals	Upon acceptance of application for processing.	Board of Adjustment (BOA) as hearing.	No less than 15 days prior to BOA hearing.	Yes, to property owners within 500 feet no less than 15 days prior to BOA hearing.	Yes, no less than 15 days prior to BOA hearing.
Use by Special Review	Upon acceptance of application for processing.	Before Planning Commission as regular agenda item and Town Board as hearing.	No less than 15 days prior to Commission hearing.	Yes, to property owners within 500 feet~~,~~ ~~and referral agencies~~ no less than 15 days prior to Commission meeting.	Yes, no less than 15 days prior to Commission meeting.
Use By Special Review Allowed Marijuana Business/Oil and Gas	Upon acceptance of application for processing.	Before Planning Commission as regular agenda item and ~~Town~~ Town Board as ~~a~~ hearing.	No less than 15 days prior to Commission hearing.	Yes, to property owners within 500 feet, ~~and referral agencies~~ no less than 15 days prior to Commission ~~Board~~ meeting.	Yes, no less than 15 days prior to Commission ~~Town Board~~ meeting.
Site Plan Review and Action	Upon acceptance of application for processing.	Administrative approval unless referred to Planning Commission by Administrator.	No notice required	Upon application acceptance to property owners within 500 feet~~.~~	Upon application acceptance.

Wireless Communications Facilities as Uses by Special Review	Upon acceptance of application for processing.	Before Planning Commission as regular agenda item and Town Board as ~~a~~ hearing.	No less than 15 days prior to Commission hearing.	Yes, to property owners within 500 feet, ~~and referral agencies~~ no less than 15 days prior to Commission ~~Board~~ meeting.	Yes, no less than 15 days prior to Commission ~~Town Board~~ meeting.

D. *Modification of application at hearing.*

1. In response to questions or comments by persons appearing at the hearing or to suggestions or recommendations by the Board of Trustees, Planning Commission or Board of Adjustment, the applicant may agree to modify their application, including the plans and specifications submitted.

2. Unless such modifications are so substantial or extensive so as to materially change the plans, the hearing body may approve the application with the stipulation that the permit will not be issued until plans reflecting the agreed upon changes are submitted to the Town for review and approval as an administrative act.

E. *Hearing continuations.* The Board of Trustees, Planning Commission, or Board of Adjustment may continue the hearing to a subsequent meeting at a certain date and time or may close the hearing and continue the meeting to deliberate the issues until a final decision is made. If a hearing is continued to a certain date and time, no further notice of a continued hearing or meeting need be published.

F. *Record.* A recording shall be made of all hearings, and transcripts of such hearings may be requested within 30 days of the close of the hearing. Transcripts shall be provided within a reasonable time after deposit of the cost of the preparation of the transcript with the Town.

SECTION 2 DEVELOPMENT IMPACT FEES

30-2-101 Intent

A. This Section ~~ordinance~~ is enacted to establish the mechanism for the imposition of development impact fees to finance the capital costs of acquiring, establishing, upgrading, expanding and constructing public facilities that are necessary to accommodate such development. This Section~~ordinance~~ is intended to assure that development bear an appropriate share of the cost of capital expenditures necessary to provide such public facilities within the Town of Berthoud and its service area as are required to serve the needs arising out of development. Therefore, it is the intent of this Section~~ordinance~~ to accomplish the following:

~~(~~1.~~)~~ Implement and be consistent with the Berthoud Comprehensive Plan;

~~(~~2.~~)~~ Allocate a fair and equitable share ~~of the cost~~ of the operation and development costs associated with providing public facilities to new development and redevelopment;

~~(~~3.~~)~~ Require new development and redevelopment to contribute its proportionate share of funds necessary to accommodate its impact on existing and future public facilities having a rational nexus to the proposed development, and for which the need is attributable to the proposed development.

30-2-102 Findings

A. The Board of Trustees makes the following findings based on extensive consultation with all municipal departments, the recommendations of past and current impact fee studies, testimony offered at the public hearing and careful study of municipal facility needs.

~~(~~1.~~)~~ The Town of Berthoud is responsible for and committed to the provision of public facilities and services at levels necessary to support residential and non-residential growth and development.

~~(~~2.~~)~~ Such facilities and services have been and will be provided by the Town utilizing funds allocated at the direction of the Board of Trustees.

~~(~~3.~~)~~ The growth experienced by the Town in recent years and projected growth rates require an excessive expenditure of public funds to maintain adequate facility standards.

~~(~~4.~~)~~ Each type of land development described in this ~~Ordinance~~ Chapter will create a need for the construction, equipping, or expansion of public capital facilities.

~~(~~5.~~)~~ The imposition of development impact fees is one preferred method of ensuring that public expenditures are not excessive, and that development bears a proportionate share of the cost of public capital facilities necessary to accommodate such development. This must be done to promote and protect the public health, safety and welfare of current and future residents of the Town.

~~(~~6.~~)~~ The fees established by this Section ~~30-10-101~~ are derived from, are based upon, and are calculated not to exceed the costs of:

a. Providing additional public capital facilities required by the new land developments for which they have levied the fees; or

b. Compensating the Town of Berthoud for expenditures made for existing public facilities that they constructed in anticipation of new growth and development.

30-2-103 Applicability and Rules of Construction

A. ~~(1)~~ This Section~~ordinance~~ shall be uniformly applicable to all new development that occurs within the corporate boundaries of the Town of Berthoud. Impact fees may be reviewed, assessed and amended as necessary. ~~All impact fees inconsistent with this ordinance are hereby repealed and replaced. However, a~~All required dedications and fees under the Berthoud Municipal Code shall remain in full force and effect.

B~~(2).~~ The provisions of this Section~~ordinance~~ shall be liberally construed to effectively carry out its purpose in the interest of the public health, safety and welfare.

C.~~(3)~~ For the purposes of administration and enforcement of this Section~~ordinance~~, unless otherwise stated~~, in this ordinance,~~ the following rules of construction shall apply ~~to the text of this ordinance~~:

1~~a~~. In the case of any difference of meaning or implication between the text of this Section~~ordinance~~ and any caption, illustration, summary table, or illustrative tables, the text shall control.

2~~b~~. The word "shall" is always mandatory and not discretionary; the word "may" is permissive.

3~~c~~. Words used in the present tense shall include the future, and words used in the singular number shall include the plural, and the plural the singular, unless the context clearly indicates the contrary.

4~~d~~. The phrase "used for " includes "arranged for," "designed for," "maintained for," or "occupied for.

5~~e~~. The word "person" includes an individual, a corporation, a partnership, an incorporated association, or any other similar entity.

6~~f~~. Unless the context clearly indicates the contrary, where a regulation involves two or more items, conditions, provisions, or events connected by the conjunction "and," "or" or "either … or," the conjunction shall be interpreted as follows:

a~~1~~. "And" indicates that all connected terms, conditions, provisions or events shall apply.

b~~2~~. "Or" indicates that the connected terms, conditions, provisions or events may apply singly or in any combination.

c~~3~~. "Either … or" indicates that the connected items, conditions, provisions or events shall apply singly but not in combination.

7~~g~~. The word "includes" shall not limit a term to the specific example but is intended to extend its meaning to all other instances or circumstances alike in kind or character.

30-2-104 Definitions

A. The following words, terms and phrases, when used in this Chapter, shall have the meanings ascribed to them in this S~~s~~ection, except where the context clearly indicates a different meaning:

~~(1)~~ *Assessment* means a determination of the amount of a development impact fee.

~~(2)~~ *Capital equipment* means equipment and furnishings with an expected life of at least five years and an aggregate value of at least $5,000.00.

~~(3)~~ *Capital improvement* means any of the following facilities that have a life expectancy of five or more years and are owned and operated by or for a municipality:

a. Storm water, drainage and flood control facilities;

b. Roadway facilities located within the service area, including roads, bridges, bike and pedestrian trails, bus bays, rights-of-way, traffic signals, landscaping and any local components of state and federal highways;

c. Parks, recreation buildings, outdoor recreational areas, open space, trails and related areas and facilities.

d. Public buildings, equipment, and vehicles necessary to support the efficient operation of the Town and its services.

~~(4)~~ *Connection fee* means a reasonable fee for connection of a service line to an existing water, sewer or municipal utility.

~~(5)~~ *Development impact fee* means a charge or assessment imposed by the Town on new development to generate revenue for funding or recouping the costs of capital improvements or facility expansions required by and attributable to the new development. The term includes amortized charges, lump sum charges, capital recovery fees, contributions in aid of construction, development fees and any other fee that function as described by this definition. The term does not include connection fees, dedication of rights-of-way or easements or construction or dedication of on-site or off-site water distribution, wastewater collection or drainage facilities, streets, sidewalks or curbs if previously approved agreements between the developer and the Town require the dedication or construction and is required by and attributable to the new development.

~~(6)~~ *Facility expansion* means the expansion of the capacity of an existing facility that serves the same function as an otherwise necessary new capital improvement, so the existing facility may serve new development. The term does not include the repair, maintenance, modernization or expansion of an existing facility to better serve existing development, including schools and related facilities.

~~(7)~~ *Fee* means a development impact fee.

~~(8)~~ *Fee payer* means a person applying for the issuance of a building permit, subdivision or site plan approval, variance or other local land use decision that will create new development.

~~(9)~~ *Land use assumptions* includes a description of the service area and projections of changes in land uses, densities, intensities and population in the service area over at least a five-year period.

~~(10)~~ *New Development* and redevelopment means any activity that results in a net increase in the demand for additional public capital facilities, as defined in this Chapter:

a. The creation of a new single-family equivalent (SFE), except the replacement of existing units of the same size and density;

b. A net increase in the gross floor area of any nonresidential building Or in the habitable portion of a residential building;

c. The conversion of a legally existing use to another permitted use if such change of use would create an increase in the demand for additional public facilities, as defined by this ordinance.

~~(11)~~ *New Development* does not include:

a. The reconstruction of a structure that fire or natural disaster has destroyed if there is no change nor change of use in the size and density of the structure;

b. The replacement of a mobile home; or

c. The construction of an accessory structure that would not increase the demand for facilities by the principal structure.

~~(12)~~ *Public capital facilities* means the undivided interest of the Town of Berthoud in the assets, facilities, and equipment owned and operated by the Town of Berthoud or cooperatively with other governmental entities that have a useful life of no less than five years. *Public capital facilities* do not include the costs associated with the operation, maintenance, repair of such facilities or with facility replacements that do not increase the capacity or level of service, but does include reasonable costs

for planning, engineering, design, land acquisition, and other reasonable costs associated with such facilities.

~~(14)~~ *Qualified professional* means a professional engineer, surveyor, financial analyst, planner or other person providing services within the scope of his license, education or experience.

~~(15)~~ *Roadway facilities* mean arterial or collector streets or roads including bridges, bike and pedestrian trails, bus bays, rights-of-way, traffic signals, landscaping at any local components of state or federal highways.

~~(16)~~ *Service area* means the area within the corporate boundaries or extraterritorial jurisdiction of a municipality to be served by the capital improvements or facility expansions specified in the capital improvements plan based on sound planning and engineering standards.

~~(17)~~ *Service unit* means a standardized measure of consumption, use, generation or discharge attributable to an individual unit of development calculated in accordance with generally accepted engineering or planning standards for a category of capital improvements or facility expansions.

~~(18)~~ *Town Administrative Official* means the Town Administrator appointed by the Board of Trustees or the municipal officials that he or she may designate to carry out the administration of this ordinance.

30-2-105 Imposition of Development Impact Fees

~~(1)~~ A. Any person, who, after the effective date of this Section~~Chapter~~ seeks to undertake new development within the Town of Berthoud is hereby required to pay development impact fees in the manner and amount set forth in this Section~~Chapter~~.

~~(2)~~ B. No new building permit or new permit for any activity requiring payment of a development impact fee pursuant to the Computation of the Development Impact Fee ~~S~~section ~~6~~ of this Chapter shall be issued unless and until the development impact fee hereby required has been paid.

C. The Town collects a number of fees at the time of Building Permit. All fees are approved by Resolution and adopted annually with each budget.

30-2-106 Computation of the Development Impact Fee

~~(1)~~ A. The amount of the development impact fees shall be set forth in the current Town Fee Resolution and shall have been determined by the Town Board based on the most recent available cost and value of infrastructure, population, and capacity information. Such fees may be amended with the fee resolution based upon updates to any of the foregoing criteria. Except as specifically provided otherwise herein, all Impact Fees existing as of the date of this Section ~~ordinance~~ shall remain in full force and effect until modified by a Fee Resolution.

~~(2)~~ B. In the case of new development created by a change of use, redevelopment, or expansion or modification of an existing use, the development impact fee shall be based upon the net positive increase in the development impact fee for the new use as compared to that which was or would have been assessed for the previous use. It is the property owner/business owner's responsibility to provide a consumptive use analysis, when requested to determine the change in impact.

30-2-107 Payment of Fee

~~(1)~~ A. The fee payer shall pay all development impact fees required by this Section~~Chapter~~ to the Town of Berthoud before issuance of a building permit or other permit required for a proposed new development.

~~(2)~~ B. All unpaid fees shall constitute a lien on the property and may be collected in the same manner as uncollected property taxes as provided by law.

30-2-108 Appeals

~~(1)~~ A. Any aggrieved party may appeal to contest the amount, collection or use of the development impact fee in the manner provided herein.

~~(2)~~ B. It shall be a condition to the commencement of such an appeal that the development impact fee from which the developer appeals shall be paid as and when the fee becomes due and payable, and upon default in making any such payment, such appeal may be dismissed.

~~(3)~~ C. The only questions appealable under this S~~s~~ection are the following:

~~a.~~ 1. The amount of the fee charged and paid by the developer;

~~b.~~ 2. The method of collection of the development impact fee;

~~c.~~ 3. The use to which the particular fee paid by the developer is made by the Town.

~~(4)~~ D. Appeals must be brought within 30 days of the date the development impact fee is payable.

~~(5)~~ E. The appellant shall pay a filing fee of $5~~2~~00.00 at the time of filing of the appeal. They shall file the notice of appeal with the Town Clerk.

~~(6)~~ F. Following the filing of the notice of appeal, the Town Clerk shall compile a record of the ordinance imposing the development impact fee that is the subject of the appeal and a record of the management and expenditure of the proceeds of the development impact fee and shall transmit these documents to the Board of Trustees. In consultation with the Town departments, the Town Clerk shall also compile a report on each appeal in which the appellant is seeking a reduction or total refund in the development impact fee paid. This report shall specify the fiscal impact on the Town if the appeal overturns the development impact fee. If the fiscal impact report indicates that the appeal, if successful, will cause a revenue shortfall that otherwise was not budgeted with respect to the public facility, and if this revenue shortfall cannot be reconciled by reduction in impacts caused by development on the appellant's property, the report shall estimate whether it will be necessary for the Town to adjust development impact fees, or amend existing ordinances, to recover the proposed revenue shortfall.

~~(7)~~ G. The appellant shall prepare and submit to the Board of Trustees, an independent fee calculation study for the new development activity that they propose. The appellant shall pay all costs incurred by the Town for the review of such study.

~~(8)~~ H. The Board of Trustees shall hold a public hearing on the appeal at its earliest convenience, preceded by a notice published as provided by law not less than 15 days preceding the date of the hearing, providing fair opportunity for the appellant to be heard. The burden shall be on the appellant to establish illegality or impropriety of the fee from which they have taken the appeal. Following the close of the public healing, the Board of Trustees shall deliberate upon the matter, and shall conduct such studies and inquiries as it deems appropriate to decide the appeal. The Board shall render their decision on the appeal within 30 days of the hearing, unless such time is extended by mutual consent of the Board and the appellant.

~~(9)~~ I. If the Board of Trustees determines that the appeal has merit, it shall determine appropriate remedies. These may include reallocation of the proceeds of the challenged development impact fee to accomplish the purposes for which the fee was collected, refunding the development impact fee in full or in part, along with interest collected by the Town thereon, or granting the appellant the opportunity to make the development impact fee payment in installments, or such other remedies as in its sole judgement it deems appropriate in a particular case.

30-2-109 Administration of Funds Collected

~~(1)~~ A. Interest earned on development impact fees shall become part of the account on which it is earned and shall be subject to all restrictions placed on the use of development impact fees under this Section~~Chapter~~.

~~(2)~~ B. Money from fees may be spent only for the purposes for which the fee was imposed as shown by any capital improvements plan adopted by the Town or as authorized by this Section~~Chapter~~.

~~(3)~~ C. The Town Treasurer shall have custody of all fee accounts and shall pay out the same only upon written orders of the Board of Trustees.

~~(4)~~ D. Funds withdrawn from the development impact fee accounts shall be used solely for acquiring, constructing, expanding or equipping those public capital facilities identified in this Section~~Chapter~~.

~~(5)~~ E. If bonds or similar debt instruments have been issued for public capital facilities constructed in anticipation of new development or are issued for advanced provision of capital facilities identified in this Section~~Chapter~~, development impact fees may be used to pay debt service on such bonds or similar debt instruments.

30-2-110 Credits

~~(1)~~ A. Land and/or public capital facility improvements may be offered by the fee payer as total or partial payment of the required development impact fee. The offer must be determined to represent an identifiable dollar value computed in a manner acceptable to the Board of Trustees. If land or improvements are offered as payment, an independent appraisal acceptable to the Board shall determine the value of such land or improvements. The Board of Trustees, in its sole discretion, may authorize the fee payer a development impact fee credit in the amount of the value of the contribution.

~~(2)~~ B. Any claim for credit must be made no later than the time of application for the building permit.

~~(3)~~ C. Credits shall not be transferable from one project or development to another without written approval of the Board of Trustees.

~~(4)~~ D. Credits shall not be transferable from one component of the public capital facility's development impact fee to any other component of this fee.

30-2-111 Additional Assessments

A. Payment of a development impact fee does not restrict the Town in requiring other payments from the fee payer, including such payments relating to the cost of the extensions of water and sewer mains or the construction of roads or streets or turning lanes to access the site or other infrastructure and facilities specifically benefitting the development as required by the land use review regulations contained in Chapter 16 of the Berthoud Municipal Code.

30-2-112 Review

A. The Board of Trustees shall review the Development Impact Fee Schedule in association with its annual fee resolution process. Such review may result in recommended amendments in one or more of the fees based on the most recent data as may be available from the Bureau of the Census, local property assessment records, market data reflecting interest and discount rates, current construction cost information for public capital facilities, etc. The Board of Trustees shall approve amendments to the impact fees following public hearings called for that purpose, no more frequently than annually, based on such data. Amendments to the amount of any fee may be by Resolution setting forth the basis for any change.

30-2-113 Water Right Dedication Requirements

A. *Titles.* This S~~s~~ection shall be known as the Town of Berthoud Water Dedication Requirements ~~Ordinance~~.

B. *Interpretation.* This S~~s~~ection shall be interpreted and construed so as to effectuate its general purposes to make uniform the terms and conditions for the dedication of water rights and cash in lieu of water

dedication to the Town for development within the Town. However, this Ssection shall not be applied in a manner inconsistent with annexation agreements in existence prior to the effective date hereof.

C. *Definitions.* Whenever in this Ssection, the words hereinafter defined or construed in this Ssection are used, they shall, unless the context requires other uses, be deemed to have the following meanings:

Accessory Dwelling means ~~an apartment integrated within a single-family dwelling, or located in a detached accessory building, such as carriage houses or agricultural- type outbuildings, located on the same lot as single-family dwellings. Accessory dwellings shall be limited to 850 square feet in floor area. There shall not be more than one accessory dwelling located on a lot in addition to the single-family dwelling.~~ a residential dwelling unit located on the same lot as a single-family dwelling unit, either within the same building as the single-family dwelling unit or in a detached building, that provides complete independent living facilities, including but not limited to provisions for sleeping, eating, cooking, and sanitation for one or more persons. Mobile homes and recreational vehicles shall not be included within the definition of the term Accessory Dwelling Unit. Accessory dwelling units shall be developed in accordance with the standards set forth in the Accessory Dwelling Unit Section of this code and only in those zoning districts where the use is listed as a use by right. Also referred to as a 'Guest House' or 'Mother-in-Law Suite'

Acceptable Water Rights for Potable Purposes means water rights acceptable to the Town pursuant to the applicable criteria set forth in Section I hereof, and deliverable to Berthoud Reservoir or directly to the Town's water treatment plant for water treatment.

Acceptable Water Rights for Non-Potable Purposes means water rights acceptable to the Town pursuant to the applicable criteria set forth in Section I hereof, and deliverable to a location acceptable to the Town.

Annexation means the act of attaching, adding, joining, or uniting a parcel of land to the legal entity known as the Town of Berthoud.

Cash in lieu of water dedication means a separate and distinct fee from water taps as required in section G, H and K hereof and related Ssections of this Code, which fee shall be utilized primarily to acquire water rights and necessary facilities for all beneficial uses within the Town. The Town shall issue a Certification of Water Dedication Credits for cash in lieu of water dedication payments for future development in the Town.

Certification of Water Dedication Credits means a certificate issued by the Town for ~~raw~~ water dedication credits in exchange for cash in lieu of water dedication payments or water rights dedications for future development in the Town.

CBT Unit means a Unit of the Colorado Big Thompson Project. A CBT Unit shall be defined to have a firm yield of 0.6 acre feet.

Change in Land Use means a change in the purpose or activity for which a particular piece of land or its buildings is designed, arranged or intended or for which it is occupied or maintained as provided in the zoning regulations for the zone district in which the land is located which change requires water resources.

Conveyance of water rights means the process by which legal title to water rights are transferred by appropriate deed, stock assignment, allotment contract or other record transfer.

Dedicate or *dedication* means to appropriate an interest in land or water rights to some public use, made by the owner, and accepted for such use by or on behalf of the public.

Development means any change in the intensity of use of land, such as an increase in the number of dwelling units in a structure or on a tract of land, a material increase in the intensity and impacts of a development, the installation of landscaping within a public right of way, when installed in connection

with a development of adjacent property and any man- made change to improved or unimproved real estate which requires additional water resources.

Dwelling unit means any building or portion thereof which contains living facilities, including provisions for sleeping, eating, cooking, and sanitation, as required by the International Building Code or the International Residential Code, as locally amended.

Extension of water service means any extension of the Town water service for which a tapping charge is assessed or any increase in Town water service resulting from a Change in Land Use.

Native Seed Area means an area that is planted using broadcast native or drought-tolerant seed mix, resulting in a drought-tolerant turf. These areas have a water dedication requirement of 0.8 acre-feet per acre.

Historical Water Rights mean those water rights associated with a particular parcel of land at the time of annexation and which have been applied to beneficial use on that land.

Natural Area as it pertains to this Section, means an area that (a) is appropriately vegetated and free of weeds; (b) is capable of maintaining the existing vegetation without irrigation; (c) has been dedicated to and accepted by the Town; and (d) is a wetland under the criteria in the Wetlands Delineation Manual utilized by the U.S. Amy Corps of Engineers and the U.S. Environmental Protection Agency in effect at the time of dedication to the Town. All Natural Areas shall be encumbered by a conservation easement. Natural Areas do not require any irrigation. In order to qualify as a Natural Area, the Developer must pay the Town's fees and expenses incurred in determining whether the area is a wetland and appropriately vegetated, and the Natural Area must be accepted by the Town at the Town's sole discretion by and through the Town Administrator.

Open Water means a body of water, such as a pond or reservoir, whether existing or created and whether for purposes of water storage, aesthetic, or recreation, that has an adequate physical and legal water supply to maintain the open water condition year round, and that has been accepted by the Town for Open Water land use.

Owner shall be any person owning water using property and/or any person owning real property either corporeal or incorporeal, connected or not connected to the Town water system.

Person shall include any individual, partnership, association, organization, firm, district, corporation, group or other legal entity of any nature, public or private.

Phase means a portion of property that is being platted or has been platted.

~~21. *Raw Water Credit* means the number of S.F.E.s for which dedication credits are certified by the Town in exchange for cash in lieu of water dedication payments or water rights dedications to the Town.~~

Single Family Equivalent Unit (*SFE* or *S.F.E.*) means a number related to the volume of water necessary to meet the demand and use requirements including systems losses and consumptive use requirements, of an average single family dwelling unit which is defined herein as 0.4 acre feet. An S.F.E. shall be defined as 0.4 acre feet for all purposes. The S.F.E. unit value assigned to such average dwelling unit is 1.0.

Sufficient priority means that a water right has a date as of which it is entitled to use water in relation to other water rights deriving their supply from the same source which is sufficiently senior that it may reasonably be expected to provide a dependable water supply for the requirements of this S~~s~~ection. Factors to be considered in making this determination shall include, but not by way of limitation, the appropriation date and adjudication date of the water right, the decreed use(s), the historical use of the water right, the physical flow available, and the administrative practices of the office of the State Engineer.

Supplemental Irrigation Water means additional potable water which will be required for irrigation at times when water is not available through a non-potable irrigation system.

Town means the Town of Berthoud, Colorado, or the Town of Berthoud acting by and through a water activity enterprise owned by the Town of Berthoud.

Town Administrator means the Town Administrator of the Town of Berthoud, Colorado.

Town Board means the Town Board of Trustees of the Town of Berthoud, Colorado.

Town water service means treated water service or non-potable water furnished by the Town of Berthoud, Colorado.

Transfer of water rights means the conveyance of legal title to water rights to the Town of Berthoud, Colorado.

Water Court Transfer Fee means the cost of court filing fees, publication fees, professional fees and other reasonable and customary costs associated with required proceedings in the Water Court for the Town to make full and lawful use of water rights dedicated to or acquired by the Town for use in its municipal water system.

Water right means a decreed right to use in accordance with its priority a certain portion of the waters of the State by reason of the appropriation of the same. It shall include both direct flow and storage rights. Water right shall also be used in the context of this Ssection to include allotment contracts with the Northern Colorado Water Conservancy District and its Municipal Subdistrict.

D. *Agreement to Comply with this Section and Development Code Requirements.* No person may use water from the Town's water utility or provide non-potable water to new development within the Town unless such person agrees to abide by all provisions of this Ssection, the Town's Development Code, all other applicable ordinances of the Town, and all the rules and regulations of the Town pertaining to the water utility and water utility services. Such agreement to abide by all the provisions of this Ssection and the Development Code shall include the reasonable right of an authorized Town representative to enter upon the water user's property and to gain access to a building or structure for inspection purposes as set forth in this Ssection. Acceptance of water service from the Town shall be deemed to constitute such agreement on the part of the water user.

E. *Other Water Systems.* No person shall operate, own, manage, control or possess a commercial water system obtaining its water supply from any source for the purpose or with the effect of distributing water therefrom to any water using property or water- using unit for any development within the Town approved after the adoption of this Ssection without first entering into an agreement therefore with the Town in the manner provided by, through, and under the laws of the State of Colorado.

F. *Obtaining Water.*

1. *Other Water Sources:* Except as the Town Board may otherwise by appropriate resolution allow, no person residing or situated within the Town corporate boundaries shall use or obtain water for usual and ordinary water use purposes for any development within the Town approved after the adoption of this Ssection except (1) by, through, and from the Town; or (2) through other systems specifically approved by the Town in writing.

2. *Other Water Sources Within Town of Berthoud's System:* No person or owner shall in any way, at any time connect or introduce water in, to, or with the Town water system, without the Town's previous written approval.

G. *Cash in Lieu of Water Dedications or Dedication of Water Rights for Potable Purposes.*

1. *Intent and Purpose.* It is the intent and purpose of this Ssection to require the dedication of Acceptable Water Rights for Potable Purposes or the payment of cash in lieu of water dedication for all potable uses. Any payment of cash in lieu of water dedication hereunder or dedication of water rights shall be sufficient to satisfy any new or additional demands for Town water service resulting from the extension of water service, or any Change in Land Use, within or outside the limits of the Town, which will require new or additional water supply from the Town, and thereby to assure an adequate and stable supply of

water to all Town water users, to ensure the financial stability of the Town water utility, and to promote the general welfare of the public.

2. *Water Right Dedication Requirement.* It is not the intent of the Town to allow the recalculation of water dedications for existing ~~subdivisions~~ development or to increase the water ~~rights~~ dedication requirements for developments ~~subdivisions~~ for which a final plat has already been approved as of the effective date of this S~~s~~ection. The requirements herein shall apply to all new development, unless otherwise agreed to in an applicable annexation or development agreement with the Town.

   a. *Dedication of Historical Water Rights*. As a condition of annexation of land to the Town, ownership of all Historical Water Rights associated with the land to be annexed shall be dedicated to the Town in accordance with section I hereof, and such dedication shall occur upon meeting all other conditions necessary for the finalization of annexation. For any other development or change in land use on lands already annexed to the Town, ownership of all Historical Water Rights associated with the land shall be dedicated to the Town in accordance with section I hereof, prior to the Town's approval of any final plat.

3. From and after the effective date of this S~~s~~ection, any person who seeks approval of any of the following shall comply with this Section and the Town's Development Code:

   a. an extension of water service;

   b. annexation;

   c. subdivision;

   d. any Change in Land Use, within or outside the limits of the Town, if such Change in Land Use will increase the demand for Town water service.~~;~~

   ~~shall comply with this section and the Town's Development Code.~~

4. *Required Water Dedication or Cash in Lieu of Water Dedication for Potable Purposes.* Cash in lieu of water dedication or dedication of Acceptable Water Rights for Potable Purposes shall be required for all potable uses.

~~6~~5. *Timing~~e~~ for Dedication of Water Rights or Payment of Cash in Lieu of Water Dedication for Potable Purposes.* Prior to issuance of a building permit, the person acquiring said building permit shall provide the required cash in lieu of water dedication or dedicate Acceptable Water Rights for Potable Purposes to the Town ~~for the potable purposes~~.

~~7~~6. *Timing for Dedication of Water Rights or Payment of Cash in Lieu of Water Dedication ~~or Dedication of Water Rights~~ for Potable Irrigation of Parks, Open Space, Golf Courses, Playing Fields and Similar Areas*. Prior to issuance of a Town Stormwater Discharge Permit for a Phase of a development, the person developing the property shall pay cash in lieu of water dedication or dedicate Acceptable Water Rights for Potable Purposes to the Town necessary to provide for one-half of water necessary for the irrigation of parks, open space, golf courses, playing fields and similar areas within the Phase to be developed if said irrigation is to be supplied with potable water. The remaining one-half shall be due and owing upon issuance of one-half of the building permits for the Phase to be developed. No further building permits shall be issued for that Phase of development until the second one-half of cash in lieu of water dedication is paid or Acceptable Water Rights for Potable Purposes are dedicated to the Town. A person may also elect to dedicate water rights for non-potable irrigation as set forth in section H below.

7~~8~~. *~~Price and~~ Amounts of Water Dedication and Cash in Lieu of Water Dedications for Potable Purposes.*

   ~~a. The price per SFE for developments in which cash in lieu of water dedication are paid pursuant to this section G set forth in section K hereof.~~

a. *SFE Determinations for Residential Development.* The amount of water dedication required for residential development in which outdoor uses are not supplied by a separate irrigation tap or system shall be determined by the Town in accordance with the following SFE values:

Dwelling Unit	SFE Value
Single Family Dwelling Unit (up to 3,500 sq. ft. lot)	0.75 SFE
Single Family Dwelling Unit (3,501 sq. ft. to 11,999 sq. ft. lot)	1.0 SFE
Single Family Dwelling Unit (12,000 to 18,000 sq. ft. lot)	1.25 SFE
Single Family Dwelling Unit (greater than 18,000 sq. ft. lot)	At least 1.5 SFE or more, as calculated pursuant to sections G.8.c hereof.
Duplex (less than 12,000 sq. ft. lot)	2 SFE
Duplex (12,000 to 18,000 sq. ft. lot)	2.5 SFE
Duplex (greater than 18,000 sq. ft. lot)	At least 2.5 SFE, or more as calculated pursuant to sections G.8.c hereof.
Multi-Family (3 or more Units)	0.5 SFE per Unit for indoor use; Additional irrigation requirement calculated pursuant to sections G.8.c. hereof.
Accessory Dwelling	0.5 SFE

b. *SFE Determinations for Residential Development with No Irrigation or Separate Irrigation Tap*: The ~~price~~ amount of ~~per SFE of cash in lieu~~ of water dedication required for dwelling units with no outdoor irrigation from the water taps for said dwelling units shall be based upon a requirement of 0.5 SFE's (0.2 acre feet) per dwelling unit~~, as set forth in section K hereof~~. This includes dwelling units in developments with all irrigated areas served by a separate irrigation tap.

c. *SFE Determinations for Irrigation with Potable Water*: Except as set forth in section G.~~5~~8.a. above regarding single family homes, duplexes, multi-family homes, and accessory ~~units~~dwellings, the amount of water dedication required ~~a person developing a property shall pay cash in lieu of water dedication or dedicate Acceptable Water Rights for Potable Purposes~~ for irrigation with potable water shall be determined by the Town based upon landscaping plans submitted to the Town in accordance with the Landscape Plan and Hy~~r~~drozone Analysis requirements in ths Chapter~~Berthoud Development Code, section 30-2-112~~, applying the following irrigation demands:

i. Zero irrigation demand (0 SFE's) per acre for Natural Areas, Open Water and impervious surfaces; and

ii. A demand of 0.8 acre-feet (2 SFE's) per acre for Native Seed Areas; and

iii. A demand of 3.0 acre feet (7.5 SFE's) per acre for lawn grass, which shall include, but shall not be limited to playing fields, parks, turf areas within golf courses and similar situations; and

iv. A demand of 1.33 acre feet (3.325 SFE's) per acre for non-turf vegetation except Natural Areas and Native Seed Areas, including but not limited to areas planted with trees, shrubs, flower beds, and low water use ground cover.

v. The Hydrozone Analysis is a consumptive use analysis prepared by an applicant for development, that t~~T~~he Town shall analyze and the ~~the landscaping plans and the acreages, which~~ analyses shall be paid for by the person developing the property. The person developing

the property may also submit a written analysis by a qualified landscape architect or an irrigation specialist sufficient to allow the Town to fully evaluate the probable water demand and consumption for irrigation uses for the development. In the event that a person elects to submit a written analysis, the Town shall review said analysis, which analysis shall be paid for by the person developing the property. The Town Administrator shall have the authority to make all final determinations of said irrigation water requirements. ~~The price for cash in lieu of water dedication for irrigation with potable water is set forth in section K hereof.~~

d. *SFE Determinations for Commercial Development*: The amount of ~~cash in lieu of~~ water dedication required ~~or the amount of dedication of Acceptable Water Rights for Potable Purposes~~ for commercial use shall be based upon a calculation of the SFE's required to provide water service for said commercial use. ~~The price of cash in lieu of water dedication shall be calculated in accordance with section K hereof.~~

i. The Town shall analyze water requirements for a proposed commercial use at the time that the commercial use is defined.

ii. The person developing the property may also submit a written analysis by a qualified consultant sufficient to allow the Town to fully evaluate the probable water demand and consumptive use for the commercial development. In the event that a person elects to submit a written analysis, the Town shall review said analysis, which analysis shall be paid for by the person developing the property. The Town Administrator shall have the authority to make all final determinations of said commercial water requirements.

iii. All commercial uses shall require a minimum of 0.5 SFE's. For multi-tenant commercial buildings, a water dedication fee for 0.5 SFE's per 1,000 square feet of building area shall be paid prior to issuance of a building permit.

iv. The Town may conduct an audit of any commercial uses to confirm the adequacy of the water original calculation of the SFEs required to provide water service for said commercial use, and the Town may require additional water dedication based on actual water usage. In the event that the Town and the Owner cannot reach an agreement regarding the additional water rights dedication based on actual water usage, the Town reserves all remedies at law and equity to resolve any such dispute.

H. *Cash in Lieu of Water Dedications or Water Rights Dedications for Non-Potable Purposes.*

1. *Amount of Water Dedication and Cash in Lieu of Water Dedications for Non-Potable Purposes.* ~~*Water Dedication Requirements.*~~ The amount of water dedication required for residential development in which outdoor uses are supplied by a non-potable irrigation tap or system shall be determined by the Town in accordance with ~~A person developing a property shall pay cash in lieu of water dedication or dedicate Acceptable Water Rights for Non-Potable Purposes for irrigation of residential lots with non-potable water based upon~~ the following SFE values:

NON-POTABLE IRRIGATION REQUIREMENTS

Dwelling Unit	SFE Value
Single Family Dwelling Unit (up to 3,500 sq. ft. lot)	0.25 SFE
Single Family Dwelling Unit (3,501 sq. ft. to 11,999 sq. ft. lot)	0.5 SFE
Single Family Dwelling Unit (12,000 to 18,000 sq. ft. lot)	0.75 SFE
Single Family Dwelling Unit (greater than 18,000 sq. ft. lot)	At least 1.0 SFE or more, as calculated pursuant to this section H.
Duplex (less than 12,000 sq. ft. lot)	1 SFE

Duplex (12,000 to 18,000 sq. ft. lot)	1.5 SFE
Duplex (greater than 18,000 sq. ft. lot)	At least 1.5 SFE, or more as calculated pursuant to this section H.
Multi-Family (3 or more Units)	Irrigation requirement calculated pursuant to this section H.

a. Additional water necessary for outdoor irrigation for single family dwellings and duplexes on lots in excess of 12,000 square feet and 18,000 square feet shall require a minimum of 0.75 and 1.5 SFE's respectively and shall be determined by the Town's staff, with final approval by the Town Administrator pursuant to this section H.

b~~ii~~. All other properties requiring outdoor irrigation shall require cash in lieu of water dedication or dedication of Acceptable Water Rights for Non-Potable Purposes in accordance with this section H based upon landscaping plans submitted to the Town in accordance with the Landscape Plan and Hyrdozone Analysis requirements in ths Chapter~~Berthoud Development Code, section 30-2-112~~ and based on the following irrigation demands:

i. Z~~z~~ero irrigation demand (0 SFE's) per acre for Natural Areas, Open Water and impervious surfaces; and

ii. Demand of 0.8 acre-feet (2 SFE's) per acre for Native Seed Areas; and

iii. A~~a~~ demand of 3.0 acre feet (7.5 SFE's) per acre for lawn grass which shall include, but shall not be limited to playing fields, parks, turf areas within golf courses and similar situations in which irrigation water is supplied through a separate non-potable irrigation tap or system; and

iv. A~~a~~ demand of l.33 acre feet (3.325 SFE's) per acre for non-turf vegetation except Natural Areas and Native Seed Areas, including but not limited to areas planted with trees, shrubs, flower beds, and low water use ground cover.

v. The Hydrozone Analysis is a consumptive use analysis that the Town shall analyze and this analysis ~~The Town shall analyze the Landscape Plan and Hyrdozone Analysis landscaping plans and the acreages, which analyses~~ l likshall be paid for by the person developing the property. The person developing the property may also submit a written analysis by a qualified landscape architect or irrigation specialist sufficient to allow the Town to fully evaluate the probable water demand and consumption for non-potable irrigation uses for the development. In the event that a person elects to submit a written analysis, the Town shall review said analysis, which analysis shall be paid for by the person developing the property. The Town Administrator shall have the authority to make all final determinations of said irrigation water requirements. ~~The price of cash in lieu of water dedication for irrigation with non-potable water is set forth in section K hereof.~~

2. *Water Dedication for Augmentation Purposes.* The person dedicating any feature to the Town that requires augmentation or replacement water shall be solely responsible for all costs and obligations of such feature, including any ongoing water augmentation or replacement obligations that may be required by dedicating to the Town an adequate amount of water to replace out-of- priority ~~evaporative losses~~ depletions, which amount Town staff determines, in its sole discretion, and ~~paying~~ all costs associated with the adjudication of a Plan for Augmentation~~, which amount Town staff determines, in its sole discretion,~~ with final approval of the Town Administrator and with the assistance of consultants and/or attorneys as needed, on a case-by-case basis.

3. *Water Dedication Alternatives.* A person who will be developing or using a non-potable irrigation system may elect to pay cash in lieu of water dedication based upon the prices set forth in section K hereof. A person may also elect to dedicate Acceptable Water Rights for Non-Potable Purposes in accordance with this section H for use within a non-potable system.

4. *Time~~ing~~ for Dedication of Water Rights or Payment of Cash in Lieu of Water Dedication for Non-Potable ~~Water Dedication~~Purposes*. ~~Water d~~Prior to issuance of a building permit for any building in the Phase of development that will use non-potable water for irrigation, the person acquiring said building permit shall provide the required cash in lieu of water dedication or dedicate Acceptable Water Rights for Non-Potable Purposes. ~~edication of Acceptable Water Rights for Non-Potable Purposes or payment of cash in lieu of water dedication shall be made prior to the issuance of a building permit for the use of non-potable water in residential yards and for commercial purposes.~~

5. *Timing for Dedication of Water Rights or Payment of Cash in Lieu of Water Dedication for Non-Potable Irrigation of Parks, Open Space, Golf Courses, Playing Fields and Similar Areas.* Prior to issuance of a Town Stormwater Discharge Permit for a Phase of development, a person shall dedicate Acceptable Water Rights for Non-Potable Purposes and/or pay all cash in lieu of water dedication including supplemental irrigation water to provide for one-half of the water necessary for non-potable irrigation of parks, open space, golf courses, playing fields and similar areas within the Phase to be developed. The remaining one-half shall be due and owing upon issuance of one-half of the building permits for the Phase to be developed. No further building permits shall be issued for that Phase of development until the second one-half of cash in lieu of water dedication is paid or water rights are dedicated to the Town.

I. *Water Rights Dedications.* In cases where a person desires to dedicate water rights rather than paying cash in lieu of water dedication, a written agreement with the Town shall be required and the following requirements shall apply.

1. *Potable Water Sources.* The amount and suitability of Acceptable Water Rights for Potable Purposes necessary to provide firm yield water shall be determined by the Town at its sole discretion. The person dedicating water rights for potable purposes shall pay for an analysis by the Town through a qualified water engineer with supporting data which shall include the following:

   a. the quantity and quality of the water which will be delivered pursuant to said water rights;

   b. the ability to deliver said water to Berthoud Reservoir or directly to the Town's water treatment plant for treatment;

   c. the amount and suitability of a dry up covenant to change the use of said water rights in Water Court, as necessary; and

   d. such other analysis as the Town deems necessary.

2. *Non-Potable Water Sources.* The amount and suitability of Acceptable Water Rights for Non-Potable Purposes necessary to provide firm yield water shall be determined by the Town at its sole discretion. The person dedicating water rights for non-potable purposes shall pay for an analysis by the Town through a qualified water engineer with supporting data to address both the criteria set forth in section I.1. and the following:

   a. a calculation of the volume of water which any non-potable system will be able to provide on a monthly basis;

   b. the amount of potable supplemental irrigation water which will be required when water under non-potable water rights is not available;

   c. the amount of required water storage, if any;

   d. the proposed use of the water rights through the proposed facilities; and

   e. compliance with this Chapter and the Section on Non-Potable Water Systems~~Chapter 30-2-130 hereof~~.

3. *Legal Criteria for Dedication Water Rights.* The person dedicating water rights shall also pay for an analysis by the Town by an attorney who specializes in water law as to whether the use of the non-

potable water as it is presented will be in full compliance with the adjudicated usage of the decreed water rights, or will need a change in the use of the water rights.

4. *Specific Water Rights.*

   a. *Handy Ditch Shares.* The amount of water for which a person will receive credit relative to the shares in the Handy Ditch Company ("Handy") will be based upon four and four-tenths acre feet per share if the historic use of the specific shares to be dedicated support said yield at the Town's sole discretion pursuant to section I.1. and 2. above.

   b. *CBT Units.* The amount of water for which a person will receive credit relative to a CBT Unit shall be 0.6 acre feet per Unit. The analyses set forth in section I.1. shall not apply to the dedication of CBT Units.

5. *Conveyance of Water Rights to the Town.* Conveyance of any water to the Town must be made in a manner that warrants free and clear title to the water. The Town shall also require documentation evidencing said free and clear title. Said water rights shall be conveyed to the Town by general warranty deed and assignment of an original share certificate for the water rights or as determined by the Town in its sole discretion. A dry-up covenant for the lands historically irrigated shall also be required if deemed necessary by the Town.

6. *Water Rights Fee.* The person dedicating said water rights to the Town shall pay to the Town $2,501~~1,25~~0.00/acre foot for any water rights which will need to be changed in Water Court to pay for Water Court fees, ~~not to exceed the~~ legal, engineering, ditch company, and Water Court fees incurred by the Town to change said water rights.

J. *Certifications of Water Dedication Credits.* Upon payment of cash in lieu of water dedication or the dedication of water rights, the Town shall issue a Certification of Water Dedication Credits to the person so paying said cash in lieu of water dedication or dedicating water rights which shall set forth the amount of water dedication credits which are available for future development in the Town. ~~Said certificates shall designate the water dedication credits as potable or non-potable.~~ The water dedication credits under any such certificate shall be fully transferrable and shall be usable for water dedication purposes anywhere within the Town of Berthoud. However, a water certificate holder shall not be entitled to encumber said certificate in any manner and the Town will not recognize any encumbrances, including but not limited to liens, financing statements, rights of first refusal, or use of said certificate for collateral. This limitation shall not apply to certificates issued prior to the enactment of this S~~s~~ection. The person paying cash in lieu of water dedication or dedicating water right shall be responsible for any legal fees incurred by the Town in issuing said Certificate. In the case of any assignment of Water Dedication Credits, the Assignor of said credits shall use the Town's forms for such assignments, and the Assignor shall be responsible for any legal fees incurred by the Town in preparing said Assignment and issuing a new Certificate. The Town may suspend any Water Dedication Credits for failure to pay said legal fees and suspend the issuance of any new building permits associated with said Water Dedication Credits until such legal fees are paid in full.

K. *Prices for Cash In Lieu of Water Dedication.* The Town shall apply the following prices for cash in lieu of water dedication ~~shall apply based on 0.4 acre feet/SFE~~:

Use	Cash In Lieu of Water Dedication
Single Family Dwelling Unit (up to 3,500 sq. ft. lot) (0.75 SFE)	$18,750 per Dwelling
Single Family Dwelling Unit (3,501 sq. ft. to 11,999 sq. ft. lot) (1 SFE)	$25,000 per Dwelling
Single Family Dwelling Unit (12,000-18,000 sq. ft. lot) (1.25 SFE)	$31,250 per Dwelling
Single Family Dwelling Unit (18,000 sq. ft. lot or greater) (at least 1.5 SFE or more, as calculated pursuant to section G.8~~.c~~ and H hereof)	a minimum of $37,500 per Dwelling or more (calculated at rate of $25,000 per SFE)

Duplexes (less than 12,000 square feet lot) (2.0 SFE)	$50,000 per Duplex
Duplexes (greater than 12,000 square feet~~?~~ and less than 18,000 square foot lots) (2.5 SFE)[1]	$62,500
Duplexes (18,000 square foot lot or greater) (at least 2.5 SFE or more, as calculated pursuant to section G.8~~.c~~ and H hereof)	A minimum of $62,500 per duplex or more, as calculated at rate of $25,000 per SFE
Multi-Family (3 or more Units) (~~1/2~~0.5 SFE per Unit for indoor use). Additional irrigation requirement calculated pursuant to sections G.8~~.c~~ and H hereof.	A minimum of $12,500 per Unit plus any additional water required for irrigation
Accessory Dwelling (0.5 SFE Per Dwelling)	$12,500 per Unit
Commercial Use	$25,000/SFE
Potable Irrigation, including Supplemental Irrigation Water	$25,000/SFE
Non-Potable Irrigation	$12,500/SFE

These prices may be amended at any time by the Board.

SECTION 3 ANNEXATION

30-3-101 Purpose

The purpose of this Chapter is to establish a procedure to bring land under the jurisdiction of the Town in compliance with the Colorado Municipal Annexation Act of 1965 (Act), C.R.S. §§ 31-12-101, to -123, as amended. This Chapter, in part, provides supplemental requirements for annexation pursuant to the Act, and is not to be construed as altering, modifying, eliminating or replacing any requirement set forth in that Act, or any requirements set forth in other portions of the Berthoud Development Code. In the event of a conflict between the Act, the provisions of this Chapter, or any requirements set forth in other portions of the Berthoud Development Code, it is the expressed intent of the Town Board that the more stringent provision shall control.

30-3-102 Statement of policy and review standards

A. It shall be the general policy of the Town with respect to annexations, the annexation application, and the consideration of annexation petitions that:

1. *Annexation is a discretionary act*. With the exception of a petition initiated by the Town for the annexation of an enclave, the Town Board shall exercise its sole discretion in the annexation of territory to the Town.

2. No future annexation will occur in the area outside the Berthoud Growth Management Area as designated as of December 31, 2012 without a majority of "yes" votes by the registered electors cast in ballots in that election.

3. The land to be annexed and the uses proposed for the land shall conform to the goals, policies and strategies of the Town of Berthoud Comprehensive Plan and to the land uses depicted on the Preferred Land Use Map, as amended. Furthermore, all annexation proceedings shall comply with the Colorado Municipal Annexation Act of 1965, as amended.

4. At the time development occurs, certain public facilities and amenities are necessary and must be constructed as part of any territory annexed to and developed within the Town in order that the public needs may be served by such facilities. These facilities include, but are not limited to, arterial streets, bridges, public parks and recreation areas, water and sanitary sewer facilities, school sites, fire and police station sites, and storm drainage facilities. Typically, the annexation of lands to the Town shall be shown not to create any additional cost or burden on the then-existing residents of the Town to provide such public facilities in any newly annexed area.

5. The petitioner for annexation shall be responsible for paying application fees and the Town's full cost for processing the annexation applications and petition; from initial discussion with Town Staff before submittal of the petition, through the approval and recording of the final annexation documents.

6. Annexed areas will not typically divide tracts of land to prevent further annexation of adjoining parcels. (For example, leaving a "gap" or a "strip" of land between property to be annexed and the adjoining property.)

7. The property owner shall comply with the Annexation Application requirements of this Chapter prior to submitting an annexation petition.

8. The property owner shall comply with the Water Right Dedication Requirements section of this Code.

30-3-103 Annexation application; zoning simultaneous with annexation

A. *Annexation application*. An annexation application is necessary for the Town to evaluate the impacts on the Town of annexing the property identified in the application. The annexation application shall include the following information:

1. *Letter of intent*. The applicant shall provide a letter of intent addressed to the Board to serve as a cover letter to the formal petition, introducing the applicant(s) to the Board, requesting annexation of the petitioner's property and describing any development plans for the property, if it is annexed. The letter of intent shall contain the following information:

   a. The property location and how the proposal will complement and be compatible with adjacent and surrounding land uses.

   b. How the proposal is compatible with the Comprehensive Plan and land use designation on the Future Land Use Map.

   c. How the proposed zoning is compatible with the Comprehensive Plan's Future Land Use Map, and how the proposed zoning designation meets the applicable standards found in the zoning section of this Code, including housing diversity standards, design requirements and neighborhood identity features.

   d. How the proposal will meet the standards and requirements in the Architectural Guidelines, Landscape Design Guidelines, Open Space Plan, Trails Plan, and any other Town plans, and any overlay districts the property is located within.

   e. If infrastructure will be financed through a Title 32 metropolitan district, the applicant shall include the letter of intent required by the Town. This letter of intent shall specify how the proposal will be consistent with the Town of Berthoud Policy for Reviewing Service Plan for Metrololitan Districts, as amended.

2. *Annexation application form*. The Town's annexation application form shall be completed, signed, and dated. The application fee as provided by this Code must be included.

3. *Annexation Petition*. The applicant shall submit a petition for annexation complying with the requirements of C.R.S. § 31-12-107, as amended. The Town of Berthoud will provide the applicant with the standard form of this Petition. The applicant shall include detailed site and development- specific information . The applicant shall provide an original petition to the Town along with the electronic sumittal. ~~One original and three copies of the Annexation Petition shall be submitted to the Town.~~

4. *Memorandum of Understanding (MOU) for payment of development review expenses*. The application shall be accompanied by a signed standard form MOU for the payment of Development Review Expenses incurred by the Town and the appropriate deposit of funds.

5. *Annexation map*. An annexation that complies with the Annexation Map Technical Standards section of this Code. ~~Per a checklist provided by the Town, copies of the annexation map at 24 by 36 inches and reductions sized at 11 by 17 inches are to be provided with the initial submittal. The annexation map(s) shall comply with the technical drawing requirements contained in Section 30-8-108 of this Code.~~ The map shall be accompanied by a legal description of the property in an electronic version (Word format).

6. *Title commitment*. The applicant shall submit proof of ownership in the form of a current and complete title commitment issued by a title insurance company licensed by the State of Colorado, whose effective date shall be less than 30 days prior to the date of submittal of the annexation petition. Ownership must match the ownership listed in the petition. If the legal description of the area to be annexed as shown on the annexation map does not match the legal description of the property owned, because of road rights-of-way or other reasons, then the title policy must certify that the property owned is wholly contained within the described area on the annexation map. If the applicant is not the

owner, there shall be provided, in addition to the title commitment naming the owner as the insured, a notarized affidavit by the owner stating the applicant is authorized by the owner to make application for annexation. The title commitment shall include all exhibits and shall be provided in a PDF or in a form acceptable to the Town. ~~The applicant is to provide a word processing file of the legal description contained in the title commitment.~~

7. *Property tax statement*. A copy of the prior year's property tax statement and paid receipt for all property to be annexed.

8. *Mailing list ~~labels~~*. The Applicant shall provide a mailing address for surrounding property owners who have listed for taxation any real property located within the distance found in the Public Hearing and General notice section of this Code. The applicant shall provide the Town with a list of addresses, the applicant's affidavit showing the list was complete and generated from the Larimer and/or Weld County records and the parcel number for the subject property. The applicant shall include the following on the mailing list: the Board of County Commissioners, the County attorneys, any special district or school district having territory within the property to be annexed, irrigation ditch companies whose rights of way traverse the property to be annexed and owners of the mineral estate on the property to be annexed, and any other entity identified by the Town. The mailing list ~~is to provide mailing address labels for Larimer and/or Weld County Commissioners and County Attorneys, special districts, school districts, irrigation companies, mineral interest owners and adjacent property owners as required by this Chapter.~~ shall be provided in a form acceptable to the Town.

9. *Zoning of property to be annexed*. The property shall be zoned ~~If zoning is requested~~ simultaneously with annexation. The ~~, the~~ petitioner must submit a complete zoning and as applicable, a neighborhood master plan application that complies with the zoning and neighborhood master plan sections of this Code. ~~d Zoning application form including a Zoning map for the property. If zoning is not requested simultaneously with annexation, the property is required by statute to be brought under the Berthoud's Development Code and Zoning Map within 90 days of the completion of the annexation process. Refer to Section 30-3-110 for zoning requirements.~~

10. The legal description of the property to be Annexed in a format acceptable to the Town including a Word document.

11~~0~~. *Annexation assessment report*. The application is to be accompanied by a narrative report assessing the effect of the proposed annexation upon the community and existing services and facilities. It shall detail the need for any expansion of those services and facilities to accommodate the development proposed for the property being annexed. The narratives shall fully explain the needs, concepts and proposed solutions for each of the following:

   a. The economic impact to the municipality of the proposed annexation including the financial impact to services provided by the Town as well as those provided by Special Districts. The financial impact shall include the impact at the time of building permit with the payment of impact fees, annual tax assessments, average sales tax per household, median household income, for example. These impact statements are understood to be estimates based on expected revenues and costs at the rates at the time of the report preparation. ;

   b. The applicant shall provide information regarding the outcome of discussion with the school district and the proposed impact including an estimate of the number of students to be generated by development of the property;

   c. The anticipated sources of water, sanitary sewer and other utilities to be used to serve the property and the impact on the water and sanitary sewer systems anticipated to serve the property;

   d. The impact on the existing transportation system in the immediate vicinity of the property as well as the overall community;

e. The impact to the existing storm water drainage system and a statement on how storm drainage will be managed;

f. Preservation of the flow of irrigation water on the site to the water's final destination;

g. The impact of additional residents on other public services such as but not limited to: fire and emergency services, library, public health, recreation, and other special districts;

h. How the proposal is compatible with the Comprehensive Plan and land designation on the Future Land Use Map;

i. How the proposed zoning is compatible with the Comprehensive Plans' Future Land Use Map, and how the proposed zoning designation meets the applicable standards in the zoning section of this Code, including housing diversity standards, design requirements and neighborhood identity features;

j. How the proposal will meet the standards and requirements in the Architectural Guidelines, Landscape Design Guidelines, Open Space Plan, Trails Plan, and any other Town plans, and any overlay districts the property is located within;

k. If a non-potable system is proposed, the entity that will own, operate and maintain the non-potable system in perpetuity and the source of water;

k. A review of existing and adjacent land uses, areas of compatibility or conflict, and possible mitigation measures that may be required for the proposed development.

30-3-104 Annexation process

A. *Annexation applications shall be processed and considered as follows*:

1. *Annexation pre-application conference*. The application process begins with a pre-application conference with Town Staff to determine the feasibility of the annexation request. Following this informal meeting, the applicant may submit a Letter of Intent requesting annexation, the annexation application form and petition maps and supporting documents.

2. *Town evaluation of annexation application*. Town Staff shall analyze the feasibility of annexing the proposed property, including but not limited to, the ability to serve with streets, water, sanitary sewer, storm sewer, parks and recreation, schools, police and fire protection; compliance with the Comprehensive Plan; sources of revenue from the property; the Town's costs to serve the proposed development; and other related matters.

B. *Annexation petitions shall be processed and considered as follows*:

1. *Annexation petition certification and completion*. The petition for annexation and all other documents submitted shall be reviewed by Staff for completeness and compliance with the provisions of the Act and the Berthoud Development Code. The applicant shall typically be notified within five working days of any deficiencies or inadequacies in the materials submitted. An incomplete submission shall not be processed, nor referred to the Town Board for a determination of substantial compliance. Once the application has been certified as complete, the applicant shall pay all application fees and development review fees. Until fees are paid, the application shall not be processed.

2. Staff shall forward the application for an Annexation and the accompanying zoning and neighborhood master plan applications, and any subdivision or land use application to referral agencies for comment.

3. *Annexation petition referral to Town Board*. Upon Staff's determination that the petition and supporting documentation are complete and in compliance with provisions of the Act and the Berthoud Development Code, Town staff shall refer the petition to the Town Board and schedule the petition for the Town Trustees to determine whether the petition is in substantial compliance with the Act.

4. *Board determination of substantial compliance*. The Town Board shall take the appropriate steps to determine if the petition is in substantial compliance with the Act.

   a. If the petition is found to be in substantial compliance with the Act, the Town Board may, by the adoption of a Resolution of Substantial Compliance, set the annexation (and zoning if requested) for public hearing on a specified date, time, and place, not less than 30 days nor more than 60 days from the effective date of the Resolution, subject to compliance with C.R.S. § 31-12-108, as amended.

   b. If the petition is found to not be in compliance with the Act, no further action shall be taken, except that the determination shall be made by resolution of the Town Board.

   c. If the Town Board, in its sole discretion, finds that the annexation is not in the best interest of the Town, it may deny the petition by resolution.

5. *Annexation impact report*. An annexation impact report conforming to C.R.S § 31-12-108.5, as amended, is required for areas of ten or more acres and will be completed by Town Staff with information provided by the applicant in the Annexation Assessment Report. The Annexation Impact Report shall be filed with the County at least 25 days prior to the Statutory hearing.

7. *Planning Commission review and recommendations*. The Planning Commission shall review, as a regular agenda item, the annexation application at a regular or special meeting to be held prior to the date of the public hearing before the Town Board. The Commission will make a recommendation by motion to the Town Board regarding the overall annexation of the property to the Town. The Commission's motion may be to recommend approval, approval with conditions, or denial of the annexation.

   At this same meeting, the Commission may review the requested zoning of and the neighborhood master plan for the property. Notice of the Commission's review of the zoning request and neighborhood master plan shall be given in accordance with Public Hearing and General Notice section of this Code~~the requirements for an amendment to the zoning map~~. The Planning Commission shall recommend to the Town Board approval with or without conditions, or recommend denial of the requested zoning.

8. *Town Board public hearing and action on the annexation*.

   a. The Town Board shall hold the public hearing on the petition for annexation, ~~and~~ zoning and if necessary, the~~, if requested~~ neighborhood master plan in conjunction with the annexation. The petitioners shall present evidence in support of the petition, ~~and~~ zoning, and neighborhood master plan~~if applicable~~. Town Staff shall testify as to the elements required by statute to be present for annexation and any comments received from governmental entities affected by the annexation. Any person may appear at the hearing and present evidence on any matter related to the annexation petition as determined by the Town Board. The Town Board may continue the hearing to another date without additional notice as provided by applicable law. At the conclusion of the public hearing, the Town Board shall adopt a resolution containing the findings of fact and conclusions, including:

      i. Whether or not the requirements of C.R.S. § 31-12-104 and -105 and this Code~~Section~~ have been met;

      ii. Whether or not additional terms and conditions are to be imposed; and

      iii. Whether or not an election is required, either as result of a petition for election or the imposition of additional terms and conditions.

   b. If the Town Board finds that the area proposed for annexation does not comply with the requirements of C.R.S. § 31-12-104 and -105, the annexation proceeding will be terminated.

c. If the Town Board finds the following:

i. The annexation is in compliance with the requirements of C.R.S. § 31-12-104 and -105;

ii. That an election is not required under C.R.S. § 31-12-107 (2); and

iii. No additional terms and conditions are to be imposed;

The Town Board may annex the land by ordinance without election and approve any annexation agreement. The zoning of the property, if requested with annexation, shall be approved by separate ordinance.

30-3-105 Post-approval actions

A. After final passage of the annexation ordinance and the zoning ordinance, the applicant shall file with the Town final versions of all applicable documents including three mylars of the annexation map(s).

B. The ~~In the event that zoning was requested with the annexation, zoning shall be granted by ordinance and the~~ official zoning map shall be amended in accordance with the zoning ordinance. ~~accordingly. In the event that zoning was not requested with annexation, the Town shall bring the area annexed under the zoning ordinance and map within 90 days after the effective date of the annexation ordinance in the manner provided by this Code. In the event that the property owner does not request and process its zoning request within such 90-day period, the zoning of the annexed property shall be deemed to be T: Transitional District as defined in this Code.~~

C. The applicant shall provide an electronic copy of the Annexation, Zoning and Neighborhood Master Plan in accordance with the electronic mapping standards established by the Town within 30 days of the adoption of the annexation ordinance and the zoning ordinance.

30-3-106 Public hearing notices

A. The Town shall publish notice of the public hearing for the zoning and neighborhood master plan and send by certified mail, notice of the public hearing for annexation, together with the Resolution of Substantial Compliance, petition and annexation map, to the County Commissioners, County Attorney and to any special district or school district having territory within the area to be annexed in accordance with Colorado law. In the case of a "flagpole" annexation, the Town shall also provide notice to abutting property owners as specified in C.R.S. § 31-12-105, as amended. ~~Notice shall also be given as required in Section 30-1-117, and Subsection C below.~~

B. The Petitioner shall be responsible for providing notice of each public hearing (Planning Commission and/or Town Board) to the owners of the mineral estate on the property to be annexed, and to their lessees, as required by C.R.S. §§ 24-65.5-101, to -105. The petitioner shall certify to the Town Clerk conformance with this notice requirement not less than 15 days prior to the date of the public hearing(s). The petitioner's certification shall include a copy of the mailing along with the list of mineral owners and the source from which the list was derived.

30-3-107 Annexation agreement

An Annexation Agreement may be developed by the Town and if developed, the petitioner shall deliver the annexation agreement executed by petitioner prior to the public hearing before the Town Board of Trustees. ~~The Town of Berthoud does not develop an annexation agreement with applicants as a matter of Town policy.~~

30-3-108 Annexation map technical standards

A. The annexation map shall be prepared by or under the supervision of a registered professional land surveyor licensed with the State of Colorado. The annexation map shall conform to the following ~~drafting~~ standards and contain the following information. It shall be a neat, clear, permanent, legible and reproducible document. Inaccurate, incomplete or poorly drawn maps shall be rejected.

1. The annexation map shall be an original drawing on 24 inches by 36 inches flat, spliceless, tapeless and creaseless sheet(s) of double matte mylar film with a uniform thickness of not less than .003 of an inch, using only permanent black ink that will adhere to drafting films, or an acceptable "fix-line" photographic reproduction (emulsion down), or a computer generated reproduction of the original drawing. The document shall be in black and white only without grey. A margin line shall be drawn completely around each sheet leaving a margin at least one-half inch on three sides and a margin at least two inches on the left (short) side, entirely blank. Unless otherwise specified, text and numbers are to be large enough to be clearly legible at the scale drawn.

2. The annexation map shall be drafted at a scale that best conveys the detailed survey, and confines the drafting error to less than one percent. Acceptable scales are one inch equals 50 feet or one inch equals 100 feet. For annexations exceeding 100 acres an acceptable scale is one inch equals 200 feet. In special instances another scale may be approved by the Town. When an annexation requires multiple sheets, an index shall be provided that delineates the boundaries and identifies each sheet number. The scale of a composite map may be different from the individual sheets, as approved by the Town. A "title sheet" containing the certifications and signature blocks shall be provided in the event that the annexation map sheet is too crowded.

3. The title shall be centered at the top of the sheet, along the long dimension of each sheet and shall include the name of the proposed annexation. A general legal description stating the section, township, range, ___th P.M., Town of Berthoud, Larimer and Weld County, Colorado, shall be included under the name. On the title sheet (Sheet #1), under the general legal description, include the total acreage. Annexation names may not duplicate existing annexation names.

Example of annexation map title:

NAME OF ANNEXATION
TO THE TOWN OF BERTHOUD, COLORADO

A Part of the xx of Section xx, Township ___ North,
Range ___West, ___th P.M., Town of Berthoud, Larimer and Weld County, Colorado
xx.xx Acres

4. There shall be a title block in the lower right-hand corner, or along the right-hand margin that contains the name, address and telephone number of the land owner, the developer, and the engineer or surveyor preparing the drawing, an appropriate title for the drawing, the preparation date, sheet number, the preparer's project identification numbers, revision dates, draftsman's initials, and the electronic drawing file name (matching the AutoCAD drawing file provided to the Town).

5. Adjacent to the title block, in the lower right-hand corner, there shall be a legend block which shall include a description of lines, points and symbols, a double-headed north arrow designated as true north and a written and graphic scale.

6. Adjacent to the right margin, or in a column to the right of the center of the title page if the page is crowded, there shall be the Town's standard statement of ownership containing a written metes and bounds legal description of the land to be annexed (including the full width of abutting roadways not already within the Town) followed by the owner's signature block(s) and notary block(s), one for each owner or mortgagee.

7. Immediately following the ownership certificate, there shall be the Town's standard Surveyor's certificate, signed, dated and sealed by a licensed surveyor or engineer.

8. Immediately following the Surveyor's certificate, there shall be the Town's standard certificate block for the Town Board.

9. Immediately following the Board's approval certificate, there shall be the Town's standard recording certificate block for the Larimer and/or Weld County Clerk and Recorder, if needed by the County.

10. A vicinity map that depicts the area to be annexed and the area which surrounds the proposed annexation within a two-mile radius superimposed on a current USGS Topographical Map, maintaining the same scale shall be placed on the left side of annexation map, outside the boundary of the area being annexed, or on the left side of the title sheet.

11. The annexation map drawing shall contain the following:

    a. Show the outline of area to be annexed with boldest line.

    b. For all references, show book, page, map number, etc., and place where publicly recorded.

    c. Show all recorded and apparent rights-of-way lines of roads both within and without the periphery of land to be annexed; these roads are those which are adjacent, adjoining, contiguous, and/or coincident with the boundary. Provide all road names, rights of-way widths at each leg of an intersection, at the point of curve and point of tangent, at dead ends and at angle points; and rights of-way lines with accurate bearings and dimensions including chord lengths and bearings, central angles and radii of all curves. Whenever the centerline of a road has been established or recorded, the date and recording information shall be shown on the Annexation Map.

    d. Show on the annexation map, next to the boundary of the area proposed to be annexed, a drawing of the contiguous boundary of the Town and the contiguous boundary of any other municipality abutting the area proposed to be annexed. A hatched boundary line shall be used to depict the boundary contiguous to the Town (example: //////////).

    e. Show section, quarter section, and other monument corners. Display ties to section corners and to the State grid, if available, which show dimensions of all primary boundary survey control points with complete monument and location descriptions, all parcel lines showing dimensions with lengths, bearings, and curve data, including chord lengths and bearings, basis of bearings and relation to true meridian and similar data. Only circular curves shall be used. No spirals, parabolas, etc. shall be used. All dimensions are to be shown to the nearest 0.01 feet or in the case of degrees, to the nearest second. An accuracy of 1:50,000 (second order) minimum for linear and angular (bearing) closure shall be required for the boundary. All internal lots, tracts, or parcels shall have a closure accuracy of 0.01 feet.

    f. Provide a description of all monuments, both found and set, which mark the boundaries of the property and of all control monuments used in conducting the survey.

    g. Show the location of each ownership tract in unplatted land, and if part or all of the area is platted, the boundaries and plat numbers of plots or of lots and blocks.

    h. Show the names and locations of all abutting subdivisions. The locations of all abutting unplatted parcels and public lands shall be depicted and designated as such.

    i. The ownership identity of all mineral rights shall be designated on the map.

    j. Show the purpose, widths, location (with fine dashed lines) and ownership of all easements and all abutting easements, including but not limited to utility, oil and gas gathering and transmission lines and irrigation ditches (fee or prescriptive). If any easement already of record cannot be definitely located, a statement of its existence, the nature thereof and its recorded reference

must appear on the title sheet. The widths of all easements and sufficient data to definitively locate the same with respect to the parcel to be annexed must be shown. All easements must be clearly labeled and identified. If an easement shown on the annexation map is of record, its recorded reference must be given.

k. All lines, names and descriptions on the annexation map which do not constitute a part of the annexation shall be shown in dashed or screened lines. Any area enclosed by the annexation, but not a part thereof, shall be labeled "Not a Part of This Annexation."

l. Accurately locate 100-year floodplains, all existing and proposed watercourses, retention and detention areas, wetlands, aquifer recharge areas, streams, lakes, or inlets on the affected property.

m. Show clearly the length and bearing of all lines described in the written description.

n. Show section numbers, quarter section quadrants, township and range lines, and label each.

o. Show all lines, calls, arcs, etc., described in written description.

p. Circle or place an ellipse around each location where a detail drawing will be provided, and provide designation for each detail such as "See Detail A."

q. Show "Point of Beginning" in bold letters with an arrow.

r. Show "True Point of Beginning" with bold letters and arrow, when appropriate.

s. A map note shall indicate the total perimeter of the annexation boundary, the contiguous length to the existing Town boundary and the length representing one-sixth of the total annexation boundary perimeter.

SECTION 4 ZONING

30-4-101 Title

The regulations contained in this Section shall be known and cited as the Berthoud Zoning Code.

30-4-102 Authority

~~The Town is authorized by law to regulate zoning, planning, subdivision of land, and building activity by virtue of Section XXXXXX, et seq, C.R.S.~~ Pursuant to the authority conferred by Title 31, Article 23, Title 24, Article 67 and Title 29, Article 20, C.R.S., this Chapter is enacted for the purpose of promoting the health, safety, convenience and general welfare of the citizens of the Town.

30-4-103 Scope

This Section shall apply to all public and private property situated within the incorporated portions of the Town.

30-4-104 General Provisions

In their interpretation and application, the provisions of these zoning regulations shall be held to be minimum requirements adopted for the promotion of the public health, safety, convenience, comfort, prosperity and general welfare of the community.

A. *Uniformity of regulations.* The regulations established by this Section ~~Berthoud~~within each zone shall apply uniformly to each class or type of structure or land. Unless exceptions are specified in this Section, the following interpretations shall apply ~~shall be applied consistently within each zone shall apply and uniformly to all properties in Berthoud. to each class or type of structure or land. Unless exceptions are specified in this Section, the following interpretations shall apply:~~

B. The Town's most recently adopted Building Codes and Fire Codes shall apply to all development and redevelopment as they relate to land use and siting of structures on property.

C. *Conflict with other provisions of law.* Whenever the requirements of this Section are inconsistent with the requirements of any other lawfully adopted rules, regulations or ordinances, the more restrictive standards shall govern.

D~~C~~. *Conflict with private covenants or deeds.* In case of a conflict between this Code and any private restrictions, the provisions of this Code shall control for purposes of enforcement by the Town. The Town shall have no responsibility to enforce private covenants or deed provisions.

E~~D~~. *Zoning of annexed territory.*

1. Zoning of land during annexation shall be done in accordance with the procedure and notice requirements of this Section and the Annexation Section of this Code. The proposed zoning ordinance shall not be passed before the date when the annexation ordinance is passed.

2. Any area annexed shall be brought under the provisions of this Section and the Zoning Map concurrently ~~within 90 days from the effective date of the annexation ordinance~~, despite any legal review that may be made challenging the annexation. ~~If the property is not zoned during such 90-day period, or such portion thereof as is required to zone the territory, the Town shall not issue a building permit for any portion, or all of, the newly annexed area.~~

30-4-102 Purpose

The purpose of this Section is to create a vital, cohesive, well-designed community ~~in order~~ to enhance the Town's ~~small town~~ character and further the citizens' goals as identified in the Comprehensive Plan, Berthoud Zoning Code, Overlay Districts, and ~~and adopted~~ Master Plans and Guidelines ~~or Overlay District as applicable~~. These zoning regulations are designed to:

A. Encourage the most appropriate use of land throughout the Town and ensure logical growth of the various physical elements of the Town so that the proposed zoning and use are compatible and complimentary to adjacent and surrounding land uses.

B. Provide aide in determining the proposal's consistency with the Comprehensive Plan~~d~~ and land use designation on the Future Land Use Map and how the proposed zoning designation meets the applicable standards found in the zoning section of this Code, including housing diversity standards, design requirements and neighborhood identity features.

C. Regulate and restrict the location and use of buildings, structures and land for residence, business, trade, industry or other purposes.

D~~C~~. Regulate and determine the size of building lots, yards and other open spaces.

E~~D~~. ~~Prevent the overcrowding of land, p~~Promote quality development, ensure efficiency in land use, lessen congestion and increase safety in travel and transportation, and encourage development that supports the long-term stability and livability of the Town.

F~~E~~. Promote the health, safety and general welfare of Town residents.

30-4-103 Zoning districts and boundaries

A. *Zoning Districts.* In order to carry out the provisions of this Code, the Town is divided into the zone districts listed below. A description of each zone district and the bulk requirements for each can be found after the Land Use Table.

1. UR — Urban Residential District
2. UC — Urban Commercial District
3. SR — Suburban Residential
4. SC — Suburban Commercial District
5. CD — Conservation District
6. AG — Agricultural District
7. R1 — Single Family District
8. R2 — Limited Multi-Family District
9. R3 — Multi-Family District
10. R4 — Mixed Use District
11. R5 — Manufactured/Mobile Home District
12. C1 — Neighborhood Commercial District
13. C2 — General Commercial District
14. M1 — Light Industrial District
15. M2 — Industrial District

16. T — Transitional District [After January 1, 2026, the Transitional District shall no longer be assigned]

17. PUD — Planned Unit Development Overlay District

B. *Official zoning map*. The boundaries and classifications of districts established are as depicted on a map entitled Town of Berthoud Official Zoning Map. The Zoning Map ~~as~~ may from time to time be revised, updated or redrafted. The Zoning Map adopted and to be used for reference shall be that map bearing the most recent date of publication which has been signed by the Chair of the Planning Commission and the Mayor.

1. *Interpretation of zoning district boundaries*.

   a. In the event uncertainty exists on the zoning map, district boundaries shall be on section lines, lot lines, the center lines of highways, streets, alleys, railroad rights-of-way or such lines extended; municipal corporation lines; natural boundary lines such as streams; or other lines to be determined by the use of scales shown on the map.

2. *Amendment upon zoning or modification*. Upon enactment of any ordinance annexing and establishing zoning or modifying existing zoning for any property, and upon date the ordinance is effective, the Town shall amend the prior existing Zoning Map to include the annexed area with the proper zoning classification or show the amended classification. Such updated official map shall contain, in table form, the date and number of the ordinance amending it, the title of the change, the date the map was amended to reflect each amendment and the initials of the person who checked and approved the change to the map.

3. *Cost for amending zoning*. Any person who petitions zoning for property being annexed or petitions to modify existing zoning shall bear the entire cost of amending the Zoning Map, including all notification costs. The Town shall provide applicants with a copy of the current fee schedule and a fee agreement form upon request.

4. *Public inspection; storage of original*. A copy of the Zoning Map shall be available and on display at the Town Hall during normal business hours. In addition one copy of the current Zoning Map, and all prior Zoning Maps that have been adopted, shall be held in a secure place by the Town Clerk, who shall act as custodian thereof, and the map shall not be amended, changed, updated or otherwise modified or let out of direct control of the Town Clerk for any reason whatsoever. The secured map is to be released for inspection only upon authorization of the Town Clerk.

30-4-104 Zoning and land uses

A. General application of uses. Uses contemplated in the Town's Zone Districts can be found in the Land Use Table ~~3.3~~. Those uses listed on the table with a "P" require approval of a Site Plan Permit; with an "S" require approval of a Use by Special Review Permit; and with a "B" require approval of a Building Permit following land use approval, as may be required. Those land uses not specifically listed on the Land Use Table shall be presumed to be prohibited. A change in land use may necessitate a land use permit as found in the Land Use Table.

Land Use Table

Land uses contemplated in the Town's Zone Districts are found in the table below. Those uses listed on the table with a "P" require approval of a Site Plan Permit; with an "S "requires approval of a Use by Special Review permit; and with a "B" require approval of a Building Permit following land use approval, as may be required. Those Land uses not specifically listed on the Table shall be presumed to be prohibited. A change in land use may necessitate a land use permit as listed below.

Land Use	Zone District														
	AG	*CD*	*SR*	*SC*	*UR*	*UC*	*R1*	*R2*	*R3*	*R4*	*R5*	*C1*	*C2*	*M1*	*M2*
Residential Land Uses															
Dwelling, single-family detached	B	B	B		B		B	B	B	B	B	~~B~~	~~S~~		
~~Dwelling, Urban House, Single-family detached~~					~~B~~										
~~Dwelling, Suburban House, Single-family detached~~			~~B~~												
Dwelling, two family; Dwelling, single-family attached; Duplex/Paired Home			B		B		B	B	B	B		~~B~~			
Dwelling, Clustered home~~Garden House~~, Single-family detached or attached			B		B										
Dwelling, Townhome, Multi-family dwelling, Apartment, Condominium (3 or more units)			P	P	P			S	P	P		~~P~~	~~S~~		
~~Dwelling, Apartment/Condo, Multi-family dwelling (4 or more units)~~			~~P~~	~~P~~	~~P~~			~~S~~	~~P~~	~~P~~		~~P~~	~~S~~		
Manufactured/mobile home and park											P				
~~Zero lot line single or two-family dwellings~~								~~P~~	~~P~~	~~P~~		~~P~~			
Accessory dwelling unit associated with a permitted use, See Section regarding Accessory Uses	B	B	B, Dwelling, single family detached		B, Dwelling, single family detached		B	B, Dwelling, single family detached							

Land Use	Zone District														
	AG	*CD*	*SR*	*SC*	*UR*	*UC*	*R1*	*R2*	*R3*	*R4*	*R5*	*C1*	*C2*	*M1*	*M2*
Mixed Land Uses															
Bed and breakfast establishments	P		~~S~~ P		~~S;~~ P in Single-Family Detached or Single Family Attached		S	S	~~S~~	~~S~~		~~P~~S	~~P~~		
Boarding and rooming houses								S	S	S		S	~~P~~		
Single-room occupancy boarding house	P		P		P		~~S~~ P	~~S~~ P	~~S~~ P	~~S~~ P		P	~~P~~		
Caretaker dwelling												S	S		
Child care home (up to 12 persons)	B	B	B		B		B	B	B	B					
Family care, elderly day care homes	P	S	P, Dwelling, single family detached		P, Dwelling, single family detached		P	P	P	P		P			
Group care facility~~homes~~	P		P ~~S~~, Dwelling, single family detached		P , Dwelling, single family detached			P	P	P		P	P		
Live-work units and buildings					P	P				P		P	P	S	S
~~Long-term care facilities~~							~~P~~	~~P~~	~~P~~	~~P~~		~~P~~	~~P~~		
Mixed use buildings (residential, commercial, office, workshops, etc.)				P		P				P		P	P	S	S
~~Safe house for adults or children (up to 8 persons)~~		~~S~~	~~S, Dwelling, single family detached~~		~~S, Dwelling, single family detached~~			~~P~~	~~P~~						
~~Senior housing~~			~~S~~		~~S~~			~~S~~	~~P~~	~~P~~	~~S~~	~~P~~	~~S~~		
~~Nursing facility~~			~~S~~		~~S~~			~~S~~	~~P~~	~~P~~	~~S~~	~~P~~	~~S~~		

Land Use	Zone District														
	AG	*CD*	*SR*	*SC*	*UR*	*UC*	*R1*	*R2*	*R3*	*R4*	*R5*	*C1*	*C2*	*M1*	*M2*
Commercial, retail or service land uses															
Adult-oriented use/sexually-oriented use~~Adult entertainment~~															S
Agricultural activity	P	P		P											
Appliance sales and service				P						S		P	P	P	P
Automotive ~~service and~~ repair - minor				S						S		S	P	P	P
Automotive ~~service and~~ repair - major				S									S	P	P
Banks and financial institutions with o~~u~~r without drive through and/or ATM kiosks				P		P				P		P	P	P	P
Bars/taverns/micro-breweries				P		P				P		P	P	P	P
~~Business/~~Professional offices (professional offices for attorneys, realtors, service contractors, administrative services, and similar service providers)				P		P				P		P	P	P	P
Car/motor vehicle washes				P									P	P	P
Child care center	S			P			S	S	S	P		P	P	P	
Clinic, addiction treatment														P	P
Cremation facility														S	S
Commercial and retail businesses, indoor sales and service				P		P				P		P	P	P	P
Contractor's office/shop				S						P		P	P	P	P
Distillery including tasting room and retail sales				P						P		P	P	P	P
Entertainment facilities, commercial theatres, etc.				P						P		P	P		
Equipment rental (small) establishments without outdoor												S	P	P	P
Equipment rental (heavy) establishments with outdoor sales														S	P

EV Charging, Primary Use				P		P				P		P	P	P	P
EV Charging, Accessory Use				P		P				P		P	P	P	P
Fireworks sales - temporary				P								P	P	P	
Gasoline station				P		S				S		S	P	P	P
Land Use	Zone District														
	AG	*CD*	*SR*	*SC*	*UR*	*UC*	*R1*	*R2*	*R3*	*R4*	*R5*	*C1*	*C2*	*M1*	*M2*
Commercial, retail or service land uses continued															
Gas, oil and other hydrocarbon well drilling and production, See Oil and Gas Section ~~11~~	S													S	S
Plant nursery and Greenhouses, public or private	P	P		P						P		P	P	P	P
Grocery store small (less than 25,000 square feet of floor area)				P		P				P		P	P	S	S
Grocery store large (greater than 25,000 square feet of floor area)				P		P				S		S	P	S	S
Home Occupations, See Section regarding Home Occupation, "P" indicates a Home Occupation Permit is needed	P	P	P		P		P	P	P	P	P	P			
Hospital				P		P	S	S	S	S		P	P	P	S
Hotel/motel/ lodging establishment (no room limit)				P		P				S		S	P	P	
Inn (up to 12 rooms)				P		P				P		P	P	P	
Kennel - small animal	P			P		P				P		P	P		S
Laundry and dry cleaning retail outlets				S						S		P	P	P	
Marina	P			S						P			P		
Medical and dental offices/clinics				P		P	S	S	S	P		P	P	S	S
Allowed Marijuana Business, See Section regarding Marijuana Businesses														S	S
Mixed Use Building (Building with a variety of uses including Commercial and Residential)				P		P									
Movie theater				P						P		P	P	P	

Parking lots and parking garages (as principal use)				P						S		S	P	P	P

Land Use	Zone District														
	AG	*CD*	*SR*	*SC*	*UR*	*UC*	*R1*	*R2*	*R3*	*R4*	*R5*	*C1*	*C2*	*M1*	*M2*
Commercial, retail or service land uses continued															
Natural Medicine Healing Center, see Section on Natural Healing Centers and Other Natural Medicine Businesses												P	P		
Passenger terminal or park-n-ride				P						P		P	P	P	P
Personal and business service shops				P			S			P		P	P	P	P
Push-cart (sidewalk/mobile vending)						P				P		P	P	P	
Recycling facilities (including biofuel) processing and sales														S	S
Research facilities				P						P		P	P	P	P
Restaurant not including drive-through				P		P				P		P	P	P	P
Restaurant with drive-through				~~P~~ S		S				S		S	P	P	P
Retail sales building/center < = 50,000 gross square feet				P		P				P		P	P	P	P
Retail sales building/center > = 50,000 gross square feet				P		P				S		S	P	P	P
Retail and supply yard establishments with screened outdoor storage				S									S	S	S
Roadside or temporary retail stand/tent	P			S						S		P	P	P	P
Sales of farm implements, heavy equipment, Mobile/ manufactured homes															P
Short-term Rental (max. 10 guests), See Section on Short Term Rental			P	~~P~~	P	~~P~~	P	P	P	P		P			
Storage facilities, outdoor storage for RV's, boats, trailers, etc.														S	S
Storage facilities - enclosed														S	S

Land Use	Zone District														
	AG	*CD*	*SR*	*SC*	*UR*	*UC*	*R1*	*R2*	*R3*	*R4*	*R5*	*C1*	*C2*	*M1*	*M2*
Commercial, retail or service land uses continued															
Truck depot				S									S	P	P
Vehicle sales including automobiles, motorcycles, RV's, boats and trucks				S									P	P	P
Veterinary facilities, small animal clinic with no outside kennels	P			P		P				P		P	P	P	P
Veterinary facilities, small animal clinic with outside kennels	P			S		S				S		S	S	S	S
Veterinary hospitals - small animals	P			P		P				P		P	P	P	P
Veterinary hospitals - large animals	P			S								S	S	S	S
Public, quasi-public, other land uses															
Accessory buildings and uses	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P
Alternative power generation facilities	S						S	S	S	S	S	S	S	S	S
Bus shelters	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P
Cemetery	P						S	S	S						
Clubs and lodges										P		P	P	P	
Community Garden	P	P	P	P	P	P	P	P	P	P	P	P	P		
Conference / convention center, see Places of Assembly															
Farmer's market				P		P				S		P	P	P	P
Fire station	P			P		P	S	S	S	S		P	P	P	P
Municipal uses without equipment yards										S		P	P	P	P
Municipal uses with equipment yards														P	P
Museum	P			P		P	P	P	P	P		P	P	P	
Parks and open space	P		P	P	P	P	P	P	P	P	P	P	P	P	P
Parks and playgrounds - neighborhood			P	P	P	P	P	P	P	P	P	P	P		
Amphitheater, outdoor	P		S	S	S	S									
Public or other non-profit recreational uses	P		P	P	P	P	P	P	P	P	P	P	P	P	P

Land Use	Zone District														
	AG	*CD*	*SR*	*SC*	*UR*	*UC*	*R1*	*R2*	*R3*	*R4*	*R5*	*C1*	*C2*	*M1*	*M2*
Commercial, retail or service land uses continued															
Public utility	P		P	P	P	P	P	P	P	P	P	P	P	P	P
Places of assembly (neighborhood scale)	P		P		P	P	SP	SP	P	P	SP	P	P	P	P
Places of assembly (medium)	P		S	P	P	P			S	P		P	P	P	P
Places of assembly (~~community~~large ~~scale~~)					SP	P						P	P	P	P
Rest stop	P									P		P	P		
Schools, public and private (preschool - grade 12)	P			P		P	P	P	P	P		P	P	P	
Schools, including colleges, vocational and technical training				P		P						S	P	P	P
Wireless telecommunications facility, see Section 30-3-111	P		S	P	S	P				S		S	P	P	P
Industrial land uses															
Laboratory and/or research facility										S			S	P	P
Industrial facility, light										S			P	P	P
Industrial facility, heavy															P
Manufacturing plants including assembly, sales and service of commodities														P	P
Other Natural Medicine Businesses, see Section on Natural Healing Centers and Other Natural Medicine Businesses														S	S
Warehouse and distribution													S	P	P
Workshops and custom small industry	S		S			P				P		P	P	P	P

30-4-105 Zoning districts, area and ~~and~~ bulk requirements~~standards~~

A. This section describes the intent of each Zone district and provides the area and bulk standards ~~requirements~~ for each Zone district. The uses allowed in each Zone district can be found on the Land Use Table ~~in the Zoning Section of this Code~~.

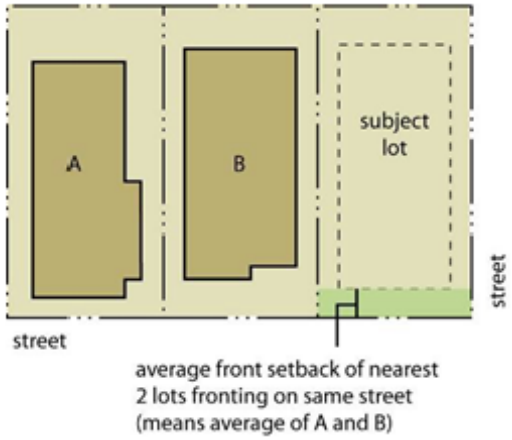
B. Measurement of residential density. Allowable or maximum residential densities as identified in this Code will be measured as gross densities where the number of residential units is divided by the total acreage of the subject property.

C. The Design Standards of this Code apply to all properties. Overlay Districts and Master Plans affecting individual properties shall be evaluated during the land use and subdivision processes. The independent Architecture Standards and the Landscape Design Guidelines shall apply to all development and redevelopment.

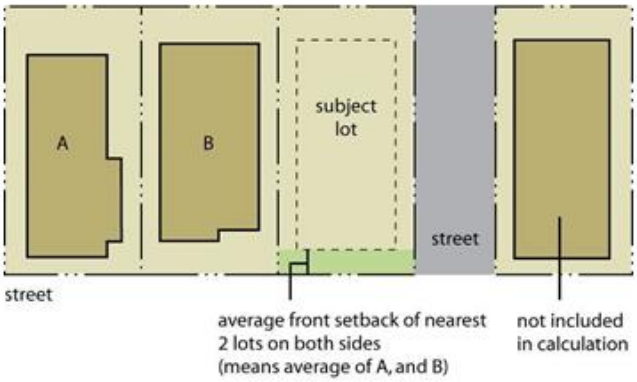
D. For all Zone Districts, refer to the latest Comprehensive Plan for details regarding the intent of each Character District. Refer to the statements below regarding each Zone District.

E. *Infill Requirements.*

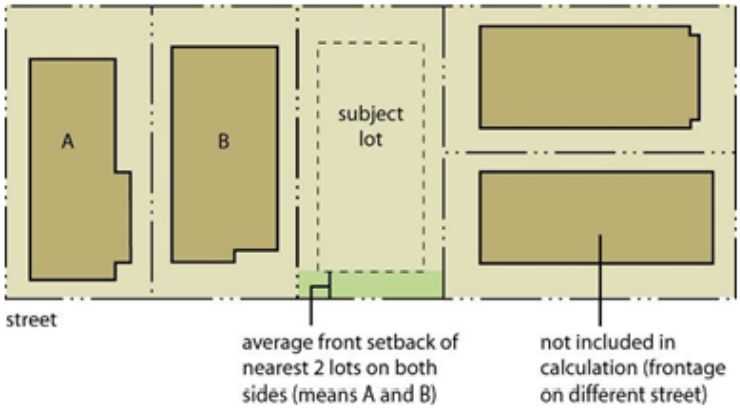
1. *Infill Front Setback*: Contextual front setbacks shall be as deep as the average front setback that exists on the nearest developed lots on the same block that front on the same side of the street as the subject lot, in accordance with the following figure:



2. Lots that front on a different street than the subject lot or that are separated from the subject lot by a street may not be used in computing the average. See the figure below:

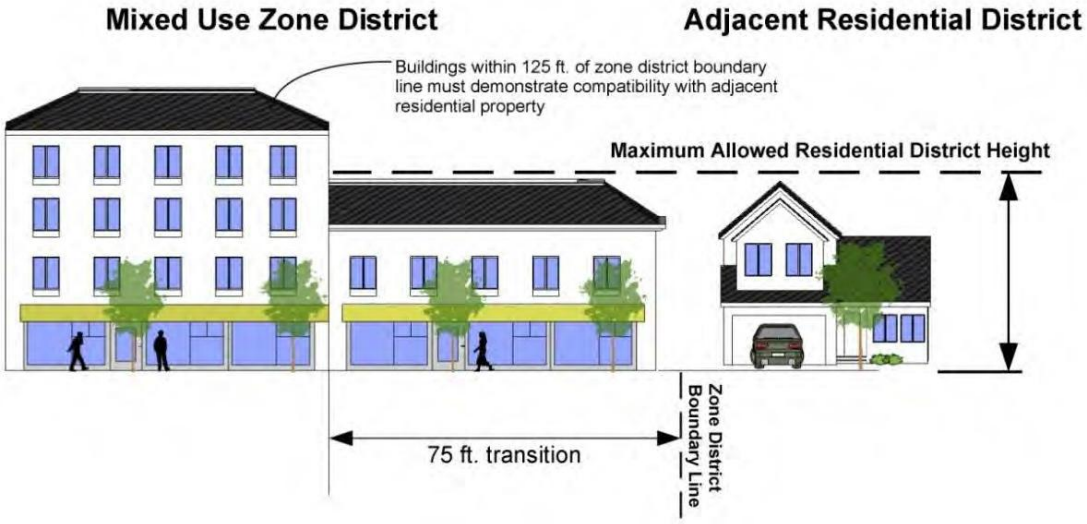


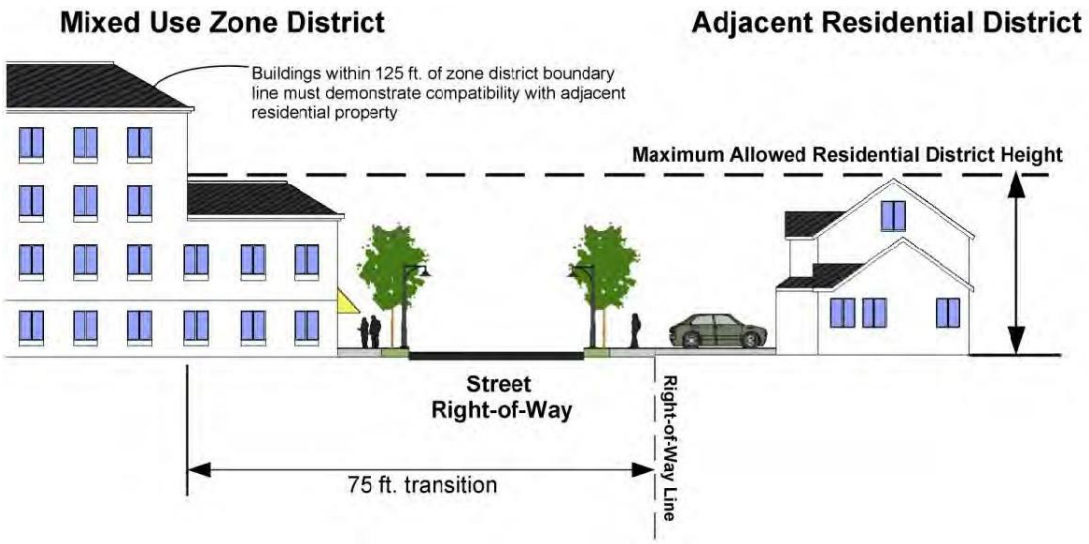
3. When the subject lot is a corner lot, the average setback will be computed on the basis of the two nearest developed lots that front on the same side of the street as the subject lot. Refer to the figure below:



4. When the subject lot abuts a corner lot fronting the same street, the average setback will be computed on the basis of the abutting corner lot and the nearest two lots that front on the same street as the subject lot.

F. *Height Transitions*. Any portion of a building located within the R-4, Mixed Use Zone District and within 75 feet of the boundary of a property zoned R-4, shall have a maximum height no greater than the maximum height allowed in the adjacent zoning district. Where a street separates the zoning districts, the measurement shall be from the street right-of-way line opposite the R-4 District. Refer to the following diagrams:





G. Zone District Descriptions, area and bulk standards~~requirements~~.

1. *UR and UC, Urban Residential and Urban Commercial District*s. The intent of the Urban Residential (UR) and Commercial (UC) Districts is to provide for a variety of housing types and limited commercial uses in a dense, walkable environment built at a human scale. The following Tables provide area and bulk requirements. Refer to the Land Use Table for different uses allowed in the Urban Residential and Urban Commercial Zone Districts through the development review process. ~~Development shall adhere to the following principles:~~

~~a. *Street Patterns and Pedestrian and Bicycle Connectivity.*~~

~~i. *Land Pattern:* Development should occur in a "New Urbanist" style, including gridded street patterns, shorter blocks, and alley-loaded products. Dead-end streets and cul-de-sacs should be avoided at all costs. Mixed-Use buildings are encouraged throughout the neighborhood, especially at street corners or along busier roadways.~~

~~ii. *Arterial and Collector Streets:* All arterial and collector streets shall be built to the Town of Berthoud's standards. These road types should be concentrated on the periphery of Urban Residential developments and should rarely provide direct access to individual lots.~~

~~iii. *Local Streets:* All streets must provide seven-foot detached tree lawns and minimum four-feet wide sidewalks along both sides of each road. Sidewalks shall be interconnected throughout, and provide natural connections to any nearby trails, parks, or open spaces. Painted bike lanes or shared bike lanes are encouraged on local streets.~~

~~iv. *Bicycle Connectivity:* Painted bike lanes or shared bike lanes are encouraged on local streets. Bike racks should be provided where public or private amenities (Subdivision Identity, Open Space Elements, or Parks) are provided. Off-street trails as transportation routes are heavily encouraged.~~

~~v. *Pedestrian Connectivity:* The size of buildings, street blocks, and amenities should be built to a pedestrian scale. Pedestrian street crossings should be plentiful, allowing for pedestrians to cross at natural locations. Off-street trails as transportation routes are heavily encouraged.~~

~~*Site Design*~~

i. *Layout:* Sites should be designed in a "New Urbanist" style with buildings built close to the sidewalk at a pedestrian scale.

ii. *Parking:* For buildings that include commercial and multi-family units, off-street parking should be located in the rear or interior of the building footprint. For single-family buildings access to the driveway and garage should come from the rear alley or side street.

iii. *Design:* All sides of a building that front a street should be activated architecturally. Corner buildings' side yards should continue the elements found in the front yard. This includes the building façade materials, architectural features, landscaping, etc.

iv. *Ground Floor Residential Uses:* Where present, ground floor residential uses fronting a public street or walkway should be separated from the street by landscaping, steps, porches, grade changes, and low ornamental fences/walls.

Table: Urban Residential Dimensional and Bulk Standards					
	Urban Residential Detached House	*Paired Homes/ Duplex*	*Townhouse/ Row House*	*~~Garden Court House~~Clustered Home*	*Apartments/ Condos*
Maximum building height	30'	30'	30'	35'	40' and refer to height transition graphic
~~Lot Size~~ Maximum density of units per acre	~~2,500 sq. ft~~ 14~~7~~	~~2,000 sq. ft.~~ 16~~21~~	~~8,000 sq. ft. min for all buildings, 1,600 sq. ft. min for each lot/unit~~ 22~~7~~	~~12,000 sq. ft. for all attached buildings, 1,200 sq. ft. min for each lot/unit~~ 24~~36~~	~~8,000 sq. ft. min for entire site~~ 5 buildings
Maximum lot coverage	80% for lots 3,500-6,000 sf, 70% for lots more than 6,000 sf and up to but not including 1 acre, 50% for lots 1 acre or greater	75%	85%	85%	70%
Side Wall Height, for Pitched Roof, within 15' Side Street (max)	25'	25'	24' max or 2 stories	24' max or 2 stories	24' max or 2 stories
Minimum lot width:	25'	20'~~ had a footnote 1 however, not footnote is provided~~	16'	For site: 100' for all buildings; 25' min. For each lot/unit Street-facing: 40' ~~Lot depth: 40'~~	50'
Front Yard setback ~~(build to line)~~:	8'-12'~~ vs. 10'~~	8'-12' ~~vs. 10'~~	8'-12'~~ vs. 8'~~	—	~~60% 10' min,~~ 20'~~ max~~
Rear yard setback with rear loaded garage	~~5' vs.~~ 5 – 8'	~~5' vs.~~ 5 – 8'	~~5' vs.~~ 5 – 8'	10'	10' alley, 20' no alley
Side setback:	5'	0' attached, 5' side lot line	0' attached, 5' side lot line for end units ~~Entire site and interior abutting Townhomes: 20'~~	7.5' ~~Entire site and interior abutting Townhomes: 10'~~	~~7.5',~~ 20' all sides~~ vs. 10' entire site and for interior abutting apartments/condo buildings (between buildings)~~

Corner Side setback	10'. When adjacent to open space that is at least 10' wide, the lot is not considered a Corner lot and ~~may assume~~ standard corner side setbacks shall apply.				□
Vehicle Access/Garage:	Alley'; if no alley, a 12' max side driveway to detached garage to the rear of the principal structure	Alley Only	Alley Only	Alley or Rear loaded ~~Street only~~	~~Alley or rear loaded~~Internal to site ~~street only~~ No surface parking between primary street or side street
Pedestrian Access:	Through an entry feature such as porch or stoop to primary street.	Entry Feature such as porch or stoop to primary street.	Entry Feature such as porch or stoop to primary street	Entry Feature such as porch or stoop fronting shared common space~~garden court~~	Entry feature such as porch/stoop fronting common space~~onto garden court~~
Accessory Structures: Also see the Accessory Uses and Structures section of this Chapter					
Accessory Structure	Accessory Dwelling Unit (ADU)/ Detached Garage	Detached Garage	Detached Garage	Detached common garage structure or attached one-car garage per unit	Detached common garage structure
~~Total Size:~~	~~ADU: 850 sq. ft. max. living area; Garage: 850 sq. ft. max.~~	~~850 sq. ft. max~~	~~850 sq. ft. max~~	~~—~~	~~—~~
Max Height (not to exceed height of primary structure):	ADU: 25' Garage: 17' unless combined with ADU, then 25'	17' (1 story)	17' (1 story)	17' (1 story)	17' (1 story)
Side Setback:	ADU: 5' for one story, 10' for two stories Garage: 5'	0' (maintenance easement required for garages with a setback of 3' or less)	5'	10'	10'
Rear Setback:	ADU: 5'~~-8'~~ Garage: 5'	5'	5'	10'	10'
Setbacks for all other Accessory Structures (pools, gazebos, etc.)	5'; however never allowed in an easement				
~~Location:~~	~~ADU: Rear 35% of lot only; Garage: At least 3' behind primary structure~~	~~At least 3' behind structure~~	~~Entirely behind primary structure~~	~~Entirely behind primary structure~~	~~Entirely behind apartments/condos~~

~~Vehicle Access~~	~~ADU: Alley only Garage: Alley, or if no alley, a 12' width max. side driveway to detached garage to the rear of the principal structure~~	~~Alley Only~~	~~Alley Only~~	~~Alley or rear loaded public street~~	~~Alley or Side/Rear loaded public street~~
Garage Type	—	—	—	—	Attached garage, max one car per Dwelling Unit

Table: Urban Commercial Standards	
Maximum building height	40 for mix use building/30' for commercial only
Lot Size Minimum for all attached buildings	3,000 sq. ft
Lot width	24'
Front Setback/Build to Line Min/Max	75% to 0'; 10' max (courtyard only)
Side Wall Setback Height (end units abutting public street)	24' Max; or 2 stories
Side Setback	7.5'
Side Setback entire site and for interior abutting buildings	10'
Rear Yard	10' alley; 20' no alley
Parking	No surface parking between primary street or side street
Vehicle Access/Garage	Alley or Rear loaded Street only; no drive-throughs
Pedestrian Access	Entry Feature
Glazing/Transparency	60% primary street; 25% side facing street

2. *SR and SC, Suburban Residential and Suburban Commercial Districts.* The intent of the Suburban (SR) Residential and the Suburban Commercial (SC) Districts is to provide for neighborhoods with primarily single-family detached and single-family attached (townhomes and paired homes) residential structures, as well as limited commercial uses.

~~a. *Street Patterns and Pedestrian and Bicycle Connectivity.*~~

~~i. *Type:* Street Patterns may have either a Suburban curvilinear character or a gridded pattern.~~

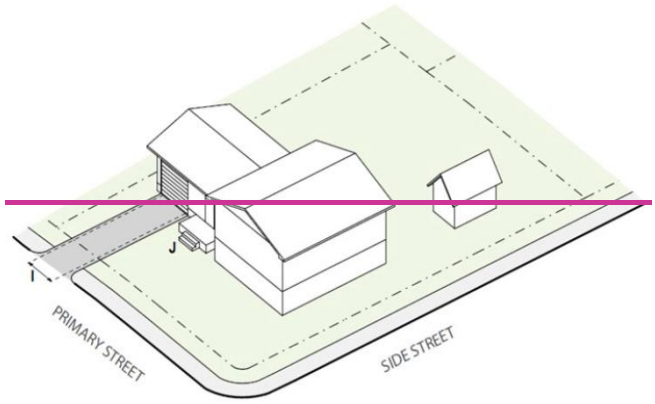
~~ii. *Walkability and bike-ability:* shall be guiding principles in the design of the overall subdivision pattern.~~

~~iii. *Arterial and Collector Streets:* All arterial and collector streets shall provide dedicated bike lanes, and bike parking or racks should be provided where public or private amenities (Subdivision Identity, Open Space Elements, or Parks) are provided. All arterial and collector streets shall provide a minimum of ten-foot tree lawns. No residential lots shall load onto arterial or collector streets.~~

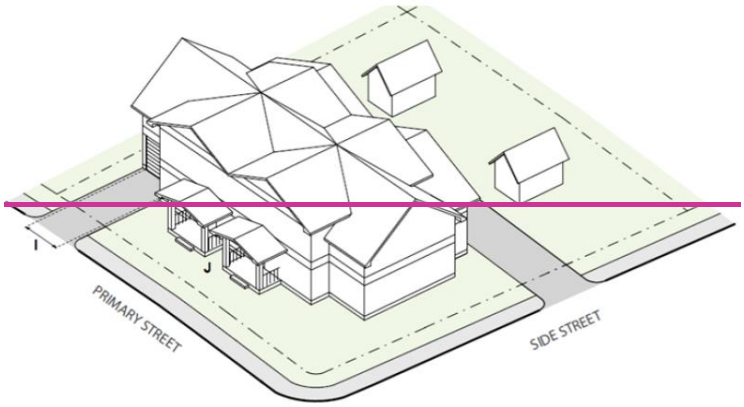
~~iv. *Local Streets:* All streets must provide seven-foot detached tree lawns and five-foot minimum sidewalks along both sides of each road. Sidewalks shall be interconnected throughout, and connect to any nearby trails, parks, or open spaces. Painted bike lanes or shared bike lanes are encouraged on local streets.~~

~~b. *Images for housing types:*~~

~~Figure Suburban Residential Detached House~~



~~Figure Suburban Residential Duplex/Paired Home~~



4. *Suburban Residential Sustainable Landscaping Standards.*

   a. Any development or platted final plat with five or more units shall retain a licensed landscape architect to prepare landscape plans for front yards. To the greatest extend possible, these landscape plans should vary in design between adjoining lots See the Landscape Design Guidelines for all landscape requirements. ~~. Also refer to the Town's Landscape Design Guidelines.~~

   b. Front yard landscaping should visually integrate the adjacent natural landscape where applicable.

      i. ~~The entire front yard shall be landscaped, except for that portion covered by a paved driveway. Landscaping shall mean any combination of trees, shrubs, vines, ground cover, turf, natural grass, decorative gravel, stones, decomposed granite, mulch or other hardscape materials.~~

      ~~ii. Monoculture and/or plant palettes including five or less species are discouraged.~~

      ~~iii. Regionally sourced or manufactured landscape construction materials, such as lumber, mulches, pavers, trees, shrubs, groundcover, and quarried gravel/cobbles/rocks or other hardscape materials, should be utilized where practical.~~

~~iv. Dwellings should incorporate landscaping features to soften the transition between the street and the dwelling.~~

v. Trees must be planted ten feet away from utility lines ~~extending to the residence~~.

~~vi. Turfgrass lawns are strongly discouraged within single-family landscape areas except where adjacent to outdoor living areas such as patios. Should turf lawns be provided, they shall cover no more than 40 percent of the front yard area.~~

~~vii. Use of architecturally compatible, decorative material is encouraged for pedestrian walkways~~

viii. Each front yard should have at least one ornamental tree. Front yard trees should be of at least one and one-half-inch caliper in size.

~~5. *Architecture.* See~~ the Architectural Design Guidelines and the requirements in this Chapter ~~Chapter 30-2 for architectural design requirements.~~

6. See the Section regarding Encroachments into setbacks and easements for all districts in this Chapter for additional information.

Table: Suburban Residential Standards

	Suburban Detached House	Duplex/Paired Home	Townhomes	Clustered Homes
Maximum building height	30’	30’	30’	35’
Minimum lot width at required front yard setback line	40’	20’	16’	For site: 100’ for all buildings; 25’ min. For each lot/unit Street-facing: 40’
Maximum lot coverage	80% for lots 3,500-6,000 sf, 70% for lots more than 6,000 sf and up to but not including 1 acre, 50% for lots 1 acre or greater	75%	85%	85%
Front yard setback with Front loaded garage	20’	20’	N/A	N/A
Front Yard setback with Rear loaded or no garage	10’	10’	10’	10’
Front Yard setback with Side loaded garage (only for garage portion)	10’	10’	10’	N/A
Rear yard setback with	20	20	N/A	N/A

front loaded garage				
Rear yard setback with rear loaded or no garage	5-8’	5-8’	5-8’	5-8’
Side setback	5’	0' attached, 5' side lot line	0' attached, 5' side lot line for end units	7.5’
Corner Side setback	10. When adjacent to open space that is at least 10’ wide excluding treelawns and sidewalks, the lot is not considered a Corner lot and may assume standard corner side setbacks.			
Buffering	On Arterial: A 30' perimeter buffer is required from all arterial streets. On Collectors: A 20' perimeter buffer is required from all collector streets.			
Maximum density per acres	14	114	227	2836
Vehicle Access/Garage	Alley; if no alley, a 12' max side driveway to detached garage to the rear of the principal structure	Alley Only	Alley Only	Alley or Rear loaded
Pedestrian Access:	Through an entry feature such as porch or stoop to primary street.	Entry Feature such as porch or stoop to primary street.	Entry Feature such as porch or stoop to primary street	Entry Feature such as porch or stoop fronting shared common space
Garage:	Garage doors shall not extend across more than 50% of the street facing façade of the primary residential structure		Alley/Rear-Loaded Only. Front access garages are prohibited.	
Setbacks for all other Accessory Structures (pools, gazebos, etc.)	5’; however never allowed in an easement			
Four-Sided Architecture:	Side or rear elevations shall not be a solid blank wall with no articulation; structures shall be designed so as to break up long walls by the use of offsets, shadow lines, façade treatments and the architectural theme on the front of the house shall be continued on the sides and rear of the structure to maintain the integrity of design throughout the structure.			

Figure Suburban Commercial

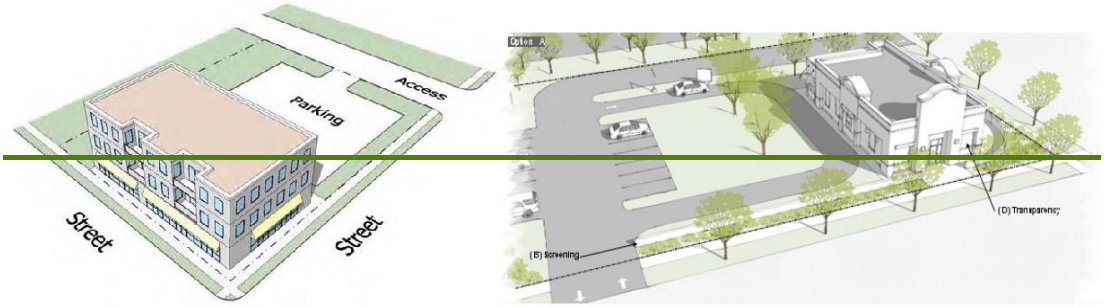


Table: Suburban Commercial Standards	
Maximum building height	40' (see height transition)
Minimum Lot Area	4,000 sq. ft.
Front yard and Corner Lot Build to Line Min/Max	50% of Building within 10' min.
Side Build to Setback	50% of the Building within 10'
Rear yard	10' ~~8~~ ~~10~~
Drive Thru	Shall not be accessed from primary street or be located in front or corner side yard.
Drive Thru Screening	Berm, garden wall or landscaping so drive aisle is not visible from ROW.
Surface Parking	No parking shall be located forward of the building, and only 20% of parking is permitted in the side yard.

Road Access:	Access shall be primarily from secondary streets; individual curb cuts shall be minimized to the greatest extent possible on primary streets.
Pedestrian Access:	Architectural emphasis from the street through use of a courtyard; or columns; or tower element; or a covered porch
Architecture/Design.	See the Section on the Mountain Avenue East Architecture Guidelines

Footnotes:	
(1)	At required front yard setback line.
(2)	Zero lot line or Townhouse: Each residential unit, 20 ft.
(3)	Garages. See Section XX
(4)	Dwelling units may be located on the lot at zero feet from one side lot line, if there is a maintenance agreement agreed to by the owner of the lot adjacent to that zero-lot line. Off-setting setbacks, setbacks of 0 ft. and 10 ft. are allowed in each district.
(5)	Balconies that are at least 10 feet above the sidewalk may encroach into the front setback or right of way, up to 5 feet, and cantilevered or bay windows that are at least 10 feet above the sidewalk surface, may encroach five feet into the required front setback, and no more than two feet into the required side or rear setbacks. Fire-resistive rating and opening requirements of the building code shall be complied with for exterior walls.
(6)	Buffer Areas:
	On Arterial: A 30' perimeter buffer is required from all arterial streets.
	On Collectors: A 20' perimeter buffer is required from all collector streets.
(7)	Infill Front setbacks as provided in Infill Setbacks 30-3-104 C
(8)	Accessory buildings. See Section xx
(9)	A 5' minimum rear setback for new lots/development; and an 8' minimum setback for development within existing lots of record abutting alleyways.
(10)	10' setback on rear yards to any deck, including covered decks and patios.
*	The required front setback to a front porch may be reduced by 7 feet.
	Side-loaded garages are allowed a 10' front setback for the garage portion.
✪	Please see Section 30-3-105 for additional encroachments into required setbacks

3. *CD Conservation District.* The Conservation District (CD) is intended to provide for primarily low-density housing types and large areas of conservation.

a. *Street Patterns and Pedestrian and Bicycle Connectivity.*

. *Land Pattern:* Development should occur in a rural style, including larger lot sizes, sizeable setbacks, and expansive areas dedicated to conservation. Dead-end streets and cul-de-sacs are discouraged in favor of looping and connected street patterns. Conservation subdivisions should follow conservation design development concepts, where a significant portion of the property is permanently protected as open space and a small percentage is developed for low density residential lots that are placed to minimize impacts to environmental resources.

. *Arterial and Collector Streets:* All arterial and collector streets shall be built to the Town of Berthoud's standards. Conservation District subdivisions should have direct access to these roadways via a local road and all residential lots should have a substantial buffer. No lots should have a direct access to an arterial or collector street.

~~. *Local Streets:* Streets are intended to be rural in nature, characterized by borrow ditches and no curb and gutter or sidewalks. Street trees and streetlights will not be required.~~

~~. *Bicycle and Pedestrian Connectivity:* Painted bike lanes or shared bike lanes are required on local streets. Bike racks should be provided where public or private amenities (Subdivision Identity, Open Space Elements, or Parks) are provided. Crusher fines off-street trails as transportation or leisure routes are heavily encouraged. Trails identified in the current Trails Master Plan are required to be constructed along with the development.~~

~~f.~~a. *Overall Layout, Density, and Process.*

i. *Layout:* Sites should be designed in a rural style with buildings built far from the street and other property lines ~~in~~ according with the requirements of this section.

ii. *Approval:* The Town PORT Committee will review any conservation subdivisions which desire to dedicate open space to the Town and make a recommendation to the Town Planning Commission and Town Board.

iii. *Water:* All Conservation Subdivisions will be required to either possess a non-pot water system or water rights to satisfactorily irrigate an agricultural property of medium water usage crops. A water study will be required at the Town's discretion to ensure this requirement is satisfied.

iv. *Trail Corridor:* All properties abutting the Little Thompson River, or a Town designated Regional Trail as per the Town's Comprehensive Plan and Trails Master Plan, shall dedicate the necessary easement or ROW for a regional trail, as determined by the Town.

v. *Parks, Open Space Elements and Subdivision Identity:* Rural Residential and Conservation Districts are exempted from the Parks requirements, Open Space elements and Subdivision Identity Standard requirements found in the Design Section of this Chapter.

vi. *Contiguous:* All property included within a conservation development shall be contiguous.

vii. *Residual and Developed Land:* All conservation developments shall consist of two segments: (1) the development cluster or clusters, on which the residential units are located, and (2) the designated private residual land to be held in conservation. The minimum size for residual land is 35 acres.

viii. *Percentage of Developable/Conversation Land:* The following minimum percentages of land are required in cluster and residual segments:

Table: Conservation Development Site Allocation Standards

The underlying density may increase by up to 30% more than the underlying density found in the Conservation Development Standards table

Conservation Development Type	Required Residual Land in Conservation (%)[±]	Permitted Developable Land in Cluster(s) (%)
No public water/sewer	80	20
Provides public sewer	80	20[1]

ix. *Density:* As per the Conservation Development Site Allocation Standards Table ~~3.4~~, 80 percent of the total project (35 min. acres) must be reserved as conserved residual land as provided in this Section. The remaining 20 percent can be developed with a density consistent with Larimer and Weld County septic standards (no less than two acres); i.e. for a quarter-section sized conservation subdivision, 128 acres would be required for open space, and the remaining 20 percent of 32 acres of developable area shall be developed at a density of two acres, or 16 dwelling units. On lots served by Town sewer, the number of development lots within the 20 percent developable area, may increase by 30 percent.

x. *Residual Land:* All residual land shall be maintained and remain undeveloped in perpetuity in accordance with appropriate use plan for residual land and/or common area as provided in of this Code.

~~*c. Site Design.*~~

~~i. *Lot Size and General Layout.* Even within the development cluster, the highest priority for site layout shall be the preservation of environmentally sensitive areas and agricultural uses. The location of home sites and the corresponding layout of lots and streets shall have a lower priority and shall be designed to create a compact development pattern. No minimum lot size is required in the development cluster, except for those developments and lots that use on-lot septic systems or wells where the minimum lot size is two acres (87,120 square feet).~~

~~ii. Site layout shall be oriented to:~~

~~1. Achieving the best possible relationship between development and features of the land;~~

~~2. Minimizing alteration of the natural site features and topography;~~

~~3. Relationship to surrounding properties;~~

~~4. Improving the view from and the view of buildings; and~~

~~5. Reducing the area devoted to roads and utilities.~~

~~iii. Flexibility in lot size is encouraged to:~~

~~1. Promote a design that is sensitive to the natural environment;~~

~~2. Adapt to the natural topography of the site;~~

~~3. Accommodate the mix of residential land uses and housing types proposed within the development;~~

~~4. Design for compatibility with agricultural uses and other existing and allowed uses.~~

~~5. To the extent practical, home sites should be located to enhance visual access to residual land both from the proposed development and from adjacent lands.~~

~~iv. *Residual Lands.*~~

~~1. Residual land in conservation developments shall be designed to achieve the maximum contiguous amount of open space possible while avoiding the creation of small, isolated, and unusable areas.~~

~~2. Roads, pedestrian walkways, and trails may connect through the residual land.~~

3. Where practical, residual land should be located contiguous to and be connected with other residual land on the site or residual land adjacent to the conservation development boundaries. Connectivity is based on visual connections for residents of the development and, where applicable, physical connections for wildlife habitat.

4. Residual land may include such uses as pedestrian and bicycle areas, buffer areas and common area devoted exclusively to the use of the residents of the conservation development and their guests.

5. Residual land areas containing environmentally sensitive areas or features can not contain any structure or improvements, except walkways or trails, provided such areas are determined to be appropriate for walkways or trails and they can be constructed with minimal disturbance to environmentally sensitive areas.

6. Residual land areas shall not include road rights-of-way or parking areas, except in projects with a ratio of 20 percent developed area to 80 percent residual land, the road right-of-way, up to 70 feet in width, may be included in the calculation of the required residual land.

7. Uses in residual land are limited to such uses, accessory structures, and improvements necessary for agricultural uses or for the educational, cultural, recreational, or social enjoyment of the residents of the conservation development and their guests, and any utility services, including community sewer systems, providing the coverage of all structures and improvements in the residual land does not exceed five percent of the residual land.

8. All residual land not developed as part of the conservation easement must be held or dedicated as a perpetual conservation easement, or as open space to the Town of Berthoud.

9. Residential conservation tracts shall not subdivided.

d. *Design Requirements.*

1. Structures shall be sited to optimize the shape and configuration of farmable parcels and fields. Fragmented farmland and wildlife habitat shall be avoided to the maximum extent practicable.

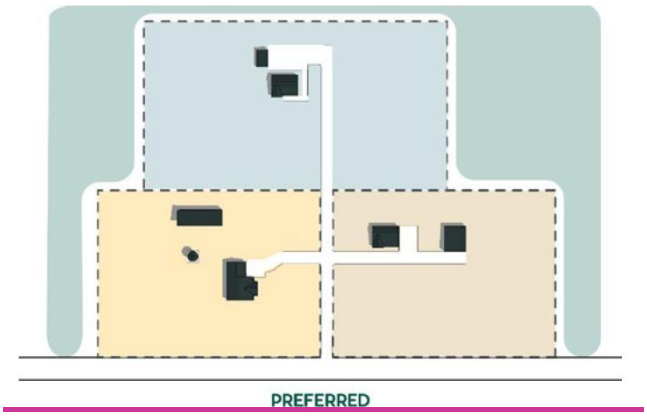
2. Structures shall be located at the edges of farmland to allow the creation of cohesive farm fields.

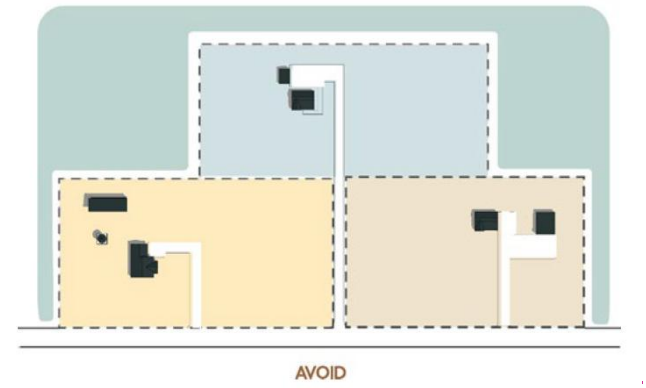
3. New structures or development shall be located at the edge of existing developed areas in compact configurations. Where possible, development should be located at the edge of farmland or natural features such as a ridgeline, tree stand, bluff, or stream.

4. Fence rows shall be used where practicable to define productive parcels and developed areas.

5. Driveways shall be located along fencerows or other natural features that are not incorporated into farm fields. The distance and number of driveways shall be minimized to the maximum extent practicable. See Figure below.

~~**Figure Driveway Site Design**~~





~~e. *Multiple-lot residential development.*~~

~~1. Multi-lot conservation development shall be clustered in the form of a typical farmstead and served by a cul-de-sac road. See Figure regarding Cluster Development with Cul-de-Sac.~~

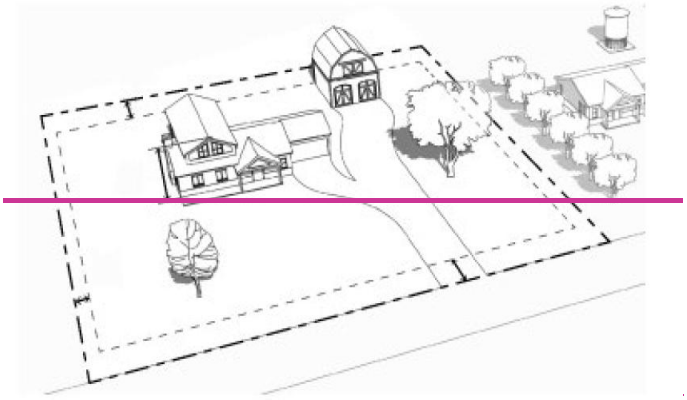
~~2. Developed land adjacent to farmland shall be minimized to prevent the loss of farmland.~~

~~3. Development shall be designed and sited to minimize the perimeter of developed areas adjacent to farmland.~~

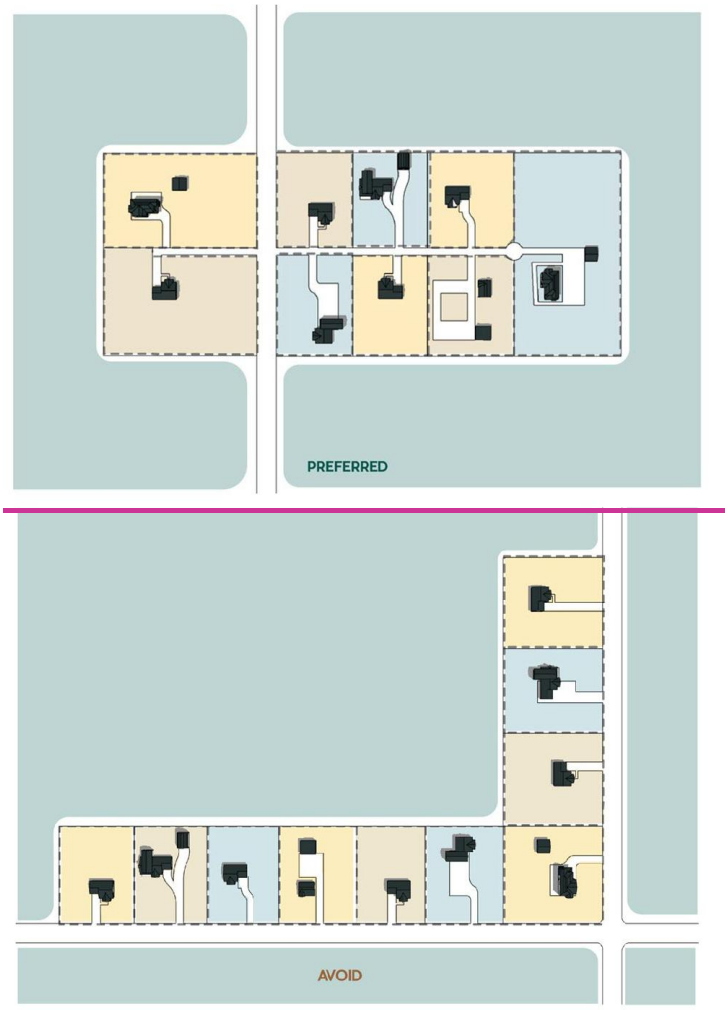
~~4. Large, isolated lots shall be avoided to the maximum extent practicable.~~

~~5. Development Sited Away from Roadway: Homes and outbuildings shall be set back from the road and shall not be designed to line the roadway with structures and driveways as shown in the figure below.~~

~~**Figure Development Sited Away from Roadway**~~



~~Figure Cluster Development with Cul-de-Sac~~



~~f. *Building Envelopes.*~~

1. In lieu of setbacks, building envelopes may be designated for each lot to identify the area where all buildings shall be constructed and to provide adequate separation between buildings and uses or activities.

2. Building envelopes shall be designed to avoid hazard areas, the tops of ridgelines or slopes, view corridors, open fields, sensitive environmental areas, and agricultural infrastructure.

3. To the maximum extent feasible, all building envelopes shall be located at least one-quarter mile (1,320 feet) from the edge of the Interstate 25 or Highway 287 right-of-way.

4. The placement of buildings within building envelopes along the street frontage should be varied to minimize uniformity.

5. If building envelopes are used, agricultural buildings may be located outside the building envelope on the residual lot if specified as part of an approved development. Applicable base zoning district setbacks shall still be applicable.

6. A building envelope may be used to limit the location of various types of structures. When so used, the types of structures limited to the building envelope shall be clearly stated as part of an approved development with the implication that all other types of structures may be located outside the building envelope

g. *Buffering.*

1. Perimeter buffering of a development cluster is required to minimize visual and noise impacts where adjacent land uses are of a different type (e.g., residential adjacent to commercial or industrial) or are of a substantially different residential density; or where the cluster is adjacent to a county road, state or federal highway or a railroad.

2. Where the proposed cluster abuts an existing or approved residential, mixed-use, or commercial development, the buffer shall be at least equal to the required rear yard depth of the adjacent lots. Where the proposed cluster abuts a county road, state or federal highway or a railroad, the buffer is measured from the edge of the existing right-of-way and shall be of a width and design to reduce visual and noise impacts from the road, highway, or railroad.

3. Buffering may be accomplished through the use of increased separation between land uses and/or by using native or drought resistant vegetation, fencing, walls, or a combination of these measures.

4. The traditional concept of using windbreak plantings around a farmstead may be desirable for the design of buffering between a cluster and agricultural uses.

h. *Fencing.*

1. Privacy fencing may be used in conservation developments when the backs of lots are adjacent to a county road or state highway, or on individual lots to provide privacy or enclosure for the lot or a portion of the lot. Such privacy fencing shall be constructed of wood.

2. Fencing should be designed to conform to the topography and be of a color that blends with the natural environment.

3. Plastic and fiberglass fencing is prohibited

5. *Standards:*

Table: Conservation Development Standards		
Dimensions	Conservation Subdivision Primary Structure	Accessory Buildings
Individual Lot Size	Must comply with existing Larimer or Weld County Septic Standards (no less than 2 acres). If on sewer, no lot size requirement.	N/A
Density	80% of 35 acre minimum must be reserved in residual tract, remaining 20% can be developed with a density consistent with Larimer and Weld County septic standards (no less than 2 acres)	N/A
Maximum lot coverage	20%	5%; Sum of lot coverage of primary structure and accessory building not to exceed 20%
Maximum Building Height	30'	0'
Front Yard Setback	See Building Envelope	Must be behind the principal structure
Rear Yard Setback:	See Building Envelope	15'
Side Yard Setback	See Building Envelope	10'
Conservation Easement Total Minimum Size	35 acres	N/A
Proportion in Conservation Easement/Dedicated Open Space	80%	
Access:	No direct individual driveway access on Primary Roads; private streets required for interior streets and access	

4. *AG Agricultural District.* The AG District provides for the continuation of agricultural activities on property annexed to the Town. Newly annexed areas that are predominately used for agricultural purposes may be zoned AG until other zoning is requested by the property owner. Agricultural zoning is intended to either support the continued agricultural activity on open farmlands near the Berthoud community or be used as a temporary "holding" zone until development at an urban scale is proposed.

A. *Maximum density.* Development in the AG District is limited to one residential unit per acre where connection to public water and wastewater systems is present, and one unit per 2.29 acres for properties without connection to public water or wastewater systems.

5. *R1 Single Family District.* The R1 District provides for the development of low to moderate density single family residential dwellings.

6.. *R2 Limited Multi-Family District.* The R2 District provides for the development of areas containing low to moderate density with both single and multi-family residential uses.

7. *R3 Multi-family District.* The R3 District is a moderate to higher-density residential zone that allows the development of multiple dwelling units on the same lot.

8. *R4 Mixed Use District.* The purpose of the R4: Mixed Use Zone District is to allow for the development of variety of residential, commercial, business and employment land uses within pedestrian-oriented neighborhoods.

Table: Traditional Residential and Agricultural Standards

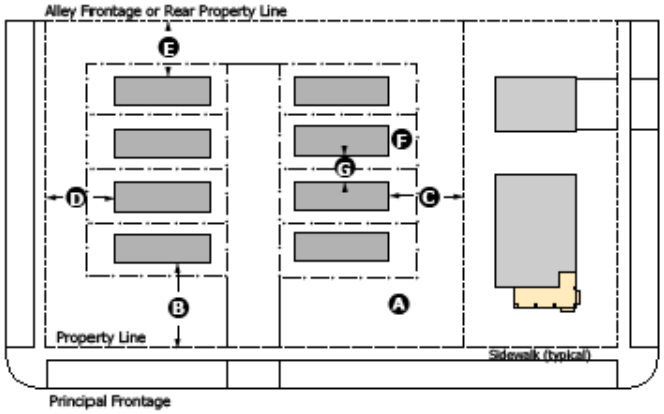
Dimensions	R-1	R-2	R-3	R-4	R-5	AG
Maximum Density of dwelling units Per Gross Acre	~~6~~8 ~~Dwelling units~~	12~~6~~ ~~dwelling units~~	20 ~~dwelling units~~	20~~4~~ ~~dwelling units~~	12 ~~dwelling units~~. Additional Density for modular home, or tiny house/park model developments may be considered as a use by Special Review.	1 ~~dwelling unit~~ (unless on septic)
Maximum lot coverage	80% for lots 3,500-6,000 sf, 70% for lots more than 6,000 sf and up to but not including 1 acre, 50% for lots 1 acre or greater				70%	15%
Maximum building height	35	35	40	50. Height Transition required as provided in Section 30-3-104.D.	16	40
Minimum lot width at required front setback line :	30	20	16	16		150
Zero lot line: minimum lot width for each residential unit. Units may be located on the lot at zero feet from one side lot line, if there is a maintenance agreement by the owner of the lot adjacent. Off-setting setbacks, setbacks of 0 ft. and 10 ft. are allowed in each district.	N/A	20’	16’	16’	N/A	N/A
Minimum setback						
Front yard Front loaded (with garage)	For properties with a 7-foot or wider tree lawn, the required front setback to a front porch may be reduced by 7 feet				25 (entire park)	25
Front Yard Rear loaded (rear, or no garage)	15	10	10	10	25 (entire park)	25
Rear yard with front loaded garage	20. 10’ setback on rear yards to any deck, including covered decks and patios.	10	10	10	15 (entire park)	25
Rear yard with rear loaded garage	5-8	5-8	5-8	5-8	15 (entire park)	25

Side Multi-Family with 3 Stories	5	5	5 10	5 10	15 (entire park)	15
Side-loaded Garage	Side-loaded garages are allowed a 10' front setback for the garage portion.					
Corner Side. May be reduced to 5' when adjacent to an open space at least 10' wide.	10	10	10	10	15 (entire Park)	15
Infill Front	Infill Front setbacks as provided in Infill Setbacks 30-3-104 C					
Accessory Structures: Also see the Accessory structures section of this Chapter.						
Accessory Structure setback from all property lines.	5', however never allowed in an easement. Excludes garages with vehicle access on corner side lots, which will follow the regular setbacks of the zoning district					
Accessory Structure maximum height	30'	30'	30'	30'	30'	30'
Front covered porches	10' setback, however never allowed in an easement.					
Buffer from adjacent streets, minimum depth depending on overlay district and utility easement requirements	On Arterial: A 30' perimeter buffer is required from all arterial streets. On Collectors: A 20' perimeter buffer is required from all collector streets. Measurement is made from the back of the curb including treelawn and sidewalk.					
Permanent buffer from adjacent residential zones				A permanent landscape buffer consisting of a hedge or evergreen plant material, or a solid wall or fence for Mixed Use buildings or commercial uses.		

9. *R5 Manufactured/Mobile Home Park District.* The intent of this district is to provide for the development of manufactured home parks and subdivisions. Mobile Home Parks or subdivisions are also included within this District.

b. *Open space required.* Development in the R5 District shall provide public open space (parks, trails, open lands) per the Design Standards Section of this Code.

Dimensional Standards for Manufactured Home Parks and Structures for the R5 Zone District.



DIMENSIONAL STANDARDS

A	Lot Width, Manufactured/Mobil Home Park:	N/A
A	Lot Area, Manufactured/Mobile Home Park:	5 acres min.
B	Setback, Front Yard, Manufactured/Mobile Home Park:	25' min.
C	Setback, Side Yard, Manufactured/Mobile Home Park:	15' min.
D	Setback, Corner Side Yard, Manufactured/Mobile Home Park:	15' min.
E	Setback, Rear Yard, Manufactured/Mobile Home Park:	15' min.
F	Lot Area, Individual Unit:	3,000 sq.ft. min.
G	Setback, Individual Unit:	10' min. between structures[1]

BUILDING HEIGHT STANDARDS



Principal Building
16' max.

1. Manufactured homes may be set up anywhere within the confines of the pad site, provided there is a minimum of ten feet between all buildings.

10. *C1 Neighborhood Commercial District.* The Neighborhood Commercial District is intended to provide for the development of mixed use, retail, commercial and service businesses to support residential neighborhoods. New development or redevelopment in this district should be scaled in size to fit the adjacent neighborhood. This District does not support larger retail, public, religious or other uses commonly referred to as "big box" type uses.

11. *C2 General Commercial District.* The C2 District is intended to be a setting for ~~development~~the development of a wide range of service businesses, retail uses, offices and personal and business

establishments. This District supports both smaller (neighborhood) commercial and retail uses as well as larger uses (commercial, retail, religious, etc.) commonly referred to as "big box" uses.

12. *M-1 Light Industrial District.* This district is intended to provide locations for a variety of workplaces including light industrial uses, research and development offices and institutions. This district is also intended to accommodate secondary uses that complement and support the primary workplace uses, such as hotels, restaurants, convenience shopping, and child care.

13. *M2 Industrial District.* This zoning district is intended to provide a location for a variety of employment opportunities such as manufacturing, warehousing and distributing, indoor and outdoor storage and a wide range of commercial and industrial operations.

Table: Traditional Commercial and Industrial Standards

	C-1	C-2	M-1	M-2
Maximum Density Per Gross Acre	20 Dwelling units	16 dwelling units	N/A	N/A
Maximum building height	50‘	50’	40’	50’
Minimum lot width at front yard setback line :	25‘	50’	50’	50’
Minimum setback:				
Front yard (building must be built on/to front/street facing setback line)	0'	25’ In the case of large buildings for employment, storage or auto-related uses where greater setbacks are needed, a minimum of 30 percent of the building shall be brought forward to the front/street facing setback line	25’	20’
Rear yard	0', or 20'when adjacent to zoning district boundary	35’	20’	20’
Side:	0’, or 20' when adjacent to zoning district boundary	0’, or 25’ when adjacent to zoning district boundary	0’, or 20’ when adjacent to zoning district boundary	0’ or 20’ when adjacent to zoning district boundary
Corner Side	0’	0’, or 25’ when adjacent to zoning district boundary	20’	20’
Setback at property line from adjacent residential zones	35’	35’	35’	35’
Permanent buffer from adjacent residential zones	Required screening consists of a hedge or evergreen plant material, or a solid wall or fence.			

14. *Transitional District.* The T, Transitional District is to accommodate properties which are in a transitional stage with regard to their ultimate use or plans for development.

a. No use shall be permitted except such use as existed on the date the property was placed in this zoning district. No permanent structures shall be constructed on any land in this district, except that which is expressly authorized by the Town Board at the time of zoning property into this district. The Town Board of Trustees may grant a variance permitting expansion of any existing use, or installation or enlargement of a permanent structure to be used in connection with the use of the property, at the time of such zoning upon the following conditions:

i. The owner of the property, prior to the Town Board meeting at which the zoning is to be heard, shall submit a site plan showing in reasonable detail the proposed expansion of current use or installation of permanent structure on the property.

ii. The Town Board shall grant such variance upon a finding that the strict application of the zoning ordinance would result in exceptional or undue hardship upon the owner of the property and that the variance may be granted without substantial detriment to the public good and without substantially impairing the intent and purposes of this code.

~~b. *Change of zoning.* The owner of any property in the T District may at any time petition the Town to remove the property from this zoning district and place it in another zoning district, in accordance with the procedures and requirements of this code.~~

15. *Planned Unit Development (PUD) Overlay District.* The Planned Unit Development (PUD) Overlay District was used as an overlay zone to supplement~~s~~ one or more underlying standard zone districts as found in this Code. The PUD Overlay District is no longer available as an option to zoning. Previously-approved PUDs are recognized. Any unimproved property with an approved PUD is encouraged to rezone their property to a zone district recognized in the Town's Zoning Chapter of the Development Code. Amendments to an existing PUD Overlay District will require the applicant to rezone the property and provide a Neighborhood Master Plan. Further subdivision processes may be required.

30-4-107 Encroachments into setbacks and easements — all districts

30-4-107. Encroachments into Setbacks and Easements — All Districts

A. General Rules

1. Nothing may encroach into or overhang an easement unless specifically permitted in this section.

2. Setbacks and easements serve different purposes:

a. *Setbacks* may allow certain building features to extend partially into them.

b. *Easements* (utility, drainage, etc.) must remain generally clear, with very limited exceptions.

B. *Permanent features allowed in setbacks.* The following features may project into required setbacks only to the limits shown. They are never allowed within easements, unless stated otherwise.

1. Architectural features (cornices, canopies, eaves, similar) may encroach up to 2 feet into a required setback.

2. Balconies more than 10’ above the sidewalk may encroach up to 5 feet into the front setback.

3. Bay or cantilevered windows more than 10’ above the sidewalk may encroach up to 5 feet into the front setback and up to 2 feet into side/rear setbacks.

4. Steps, ramps, and landings to the principal building entrance may encroach up to 6 feet into a required setback.

5. Fire escapes and window wells may encroach up to 50% of the required setback dimension.

6. Uncovered patios, porches, decks less than 30" above finished grade may encroach up to 30% of the required setback depth.

7. HVAC units may encroach up to 2 feet into a required setback.

8. Landscaping may encroach in any required setback

9. Fences and decorative walls, subject to height and design restrictions may encroach in any required setback

10. Accessory Use EV Charging and associated equipment is subject to all setback and screening requirements within this Chapter, unless the siting of such equipment outside of setbacks is demonstrated to be infeasible, in which case the applicant shall document in their application why they are requesting the setback exemption and that a decision will be made based on that justification through the associated permit review process for the project as noted in the use table. Accompanying Principal Uses are still subject to applicable setbacks and screening requirements

C. Permanent features allowed in easements

1. Utility service lines to a structure.

2. Utility lines, wires, and associated utility structures within a designated utility easement.

D. *Permanent features prohibited in easements.* The following are not allowed in any easement:

1. Window wells.

2. Building egress located below grade.

3. Any structure, fence, sidewalk, pathway, or other feature that blocks stormwater flow in a drainage easement or obstructs use of a utility easement.

E. *Drainage easements.* Drainage easements must remain completely clear of obstructions to ensure proper stormwater flow.

~~A. *Setback and easement requirements (all districts).*~~

~~1. Allowed pPermanent features within setbacks and easements shall maycan include:~~

~~i. Cornices, canopies, eaves or other similar architectural features if they extend no more than two feet into a required setback. They cannot and if they do not encroach into or overhang an easement;~~

~~ii. Steps or ramps to the principal entrance and necessary landings, provided they do not extend more than six feet into the required setback and are not allowed in an easement;~~

~~iii. Utility service lines to a structure and utility lines, wires and associated structures within a utility easement;~~

~~iv. Fire escapes and window wells, provided they do not extend more than fifty (50) percent of the required setback dimension six feet into the required setback and are not allowed in an easement;~~

v. Uncovered patios, porches and decks not more than 30 inches above grade, provided they do not extend more than 30 percent of the required setback distance into the required setback area and are not allowed in an easement; and

vi. HVAC units may encroach up to two feet into the required setback and are not allowed in an easement; and

vii. Landscaping; and

viii. Fences and decorative walls, subject to height and other restrictions of the Chapter.

23. Permanent features not allowed within an easement include:

i. Window wells; and below grade of the structure;

ii. Building egress located below the grade of the property and/or structure;

iii. Structures, concrete pathways, sidewalks, fences and other features prohibiting the flow of stormwater through a drainage easement or obstructions to utility easeementseasements.

34. Drainage easements shall be kept clear of allny obstructions.

30-4-108 Zoning Amendments See 30-3-110

A. *Initiation of amendments to text or official zoning map*. The Board may from time to time, amend, supplement, change or repeal the regulations and provisions of this Section. Amendments to the text of this Code may be initiated by the Board, Town Staff or the Planning Commission. Amendments to the zoning district map may be initiated by the Board, Town Staff, Planning Commission, or by a real property owner in the area to be included within the proposed amendment.

B. *General rezoning of the Town*. Whenever the zoning district map is in any way to be changed or amended incidental to or as part of a general revision of the zoning code, whether such revision be made by repeal of the existing zoning code and enactment of a new zoning code or otherwise, the requirement of an accurate survey map or other sufficient legal description of, and the notice to and listing of names and addresses of owners of real property in the area of the proposed change, shall be waived. However, the proposed zoning map shall be available for public inspection in the Town Hall during regular business hours for a minimum of 15 days prior to the public hearing on such amendments.

C. *Zoning amendment application process.*

1. *Procedures.* See the Land Use Processes and Procedures Table and the Application Processes Section.

2. Notice shall be given in accordance with the public hearing and general notice provisions found in this Chapter.

3. *Zoning amendment application submittal.* The applicant shall submit the complete zoning amendment application package to the Town and shall request that the application be reviewed by the Planning Commission and Board. In the case of text amendments, no zoning amendment map is required. Application requirements shall include the following:

a. Application form, fee and memorandum of understanding.

b. A legal description for all property to be considered for rezoning.

b. A legal description for all property to be considered for rezoning to be provided in a form acceptable to the Town inclusive of a word processing format

c. Current proof of ownership in the form of a title commitment issued within 30 days of submission of the application for zoning map amendments. The copy shall include a single document inclusive of all exemptions and referenced recorded documents.

d. An amended map illustrating the area included in the proposed change (24 x 36 inches in size) containing the following information:

i. North arrow, scale (one inch equals 100 feet or one inch equals 200 feet), and date of preparation.

ii. The subdivision or block and lot name of the area to be zoned (if applicable) at the top of each sheet.

iii. Legal description of area to be zoned (entire area and individual zoning districts). In un-subdivided property, zone boundaries shall be determined by a metes and bounds description or by lot and blocks if applicable.

iv. Location and boundaries, including dimensions, of the property(s) proposed for rezoning. Note: zone boundaries are to be the center lines of physical streets, roads, highways, alleys, railroad rights-of-way, and channelized waterways, or such lines extended.

v. The acreage or square footage contained within the property proposed for rezoning.

vi. All existing land uses in the proposed rezoning area.

vii. Zoning and existing land uses on all lands adjacent to the proposed rezoning.

viii. The location and dimensions for all existing easements and public rights-of-way including streets, fee properties, and centerlines of water-courses within and adjacent to the rezoning.

ix. The names of all adjoining subdivisions with lines of abutting lots, and departing property lines of adjoining properties not subdivided.

x. Certificate blocks for Surveyor, Planning Commission, Board, and Larimer or Weld County Clerk and Recorder.

xi. ~~Digital format acceptable to the Town.~~ Provide a digital copy of the approved property boundary in a format acceptable to the Town.

e. Narrative materials. A written statement describing the proposal and addressing the following points:

i. How the proposal meets the Intent Statements found in the Subdivision and Land Use Section of this Code as well as how the proposal meets the Criteria for Approval of a Zoning Amendment request.

Ii. Rationale for the proposed rezoning;

ii. Present and future impacts on the existing adjacent zone districts, uses, and physical character of the surrounding area;

iii. Impact of the proposed zone on area accesses and traffic patterns;

iv. Availability of utilities for any potential development;

v. Present and future impacts on public facilities and services, including, but not limited to, fire, police, water, sanitation, roadways, parks, schools, and transit;

vi. ~~The relationship between the proposal and the Town Comprehensive Plan~~ The relationship between the proposal and the intent of the Town Comprehensive Plan and Future Land Use Map;

vii. Public benefits arising from the proposal;

viii. Narrative materials shall respond to the intent section found in the Subdivision and Land Use Section of this Chapter and the Criteria for Approval Section found below.

ix. Additional narrative materials for text changes, provide a written description of the proposed change including the citation of the text to be changed citing specific difficulties with the existing text and similar provisions in zoning codes of other jurisdictions that support the rationale of the proposed change.

f. A list of surrounding property ownership in a format acceptable to the Town including the names and addresses of the surrounding property owners, mineral interest owners of record, mineral and oil and gas lessees for the property and appropriate ditch companies. The applicant shall certify that the report is complete and accurate.

4. *Post approval actions.*

a. Upon approval of an amendment to the official zoning map by the Board, the Town shall cause an appropriate revision of the official zoning map to be prepared. In the event the zoning amendment was initiated by an interested party, the petitioner shall pay the Town's cost for the preparation of the revision to the official zoning map.

b. Upon approval of an ordinance amending, changing or repealing part of the text of this Section, the Town shall certify a copy of the ordinance and place it in the official records of the Town and make appropriate supplements to this Section.

c. The applicant initiating the official zoning map amendment shall have one month after approval of the amendment by the Board to submit to the Town a copy of the approved and fully-executed zoning amendment map in a format acceptable to the Town for recording, along with the recording fees and all other costs billed by the Town relative to the zoning amendment.

The zoning amendment map shall be prepared by a licensed surveyor or engineer. Inaccurate, incomplete or poorly drawn plans shall be rejected. In addition, the petitioner shall provide the final document in a format acceptable to the Town.

e. Within 30 days of receipt of an applicant-initiated zoning amendment map, the Town shall review the document(s) for compliance with the Board approval, obtain the Town Officials' signatures and submit the approved zoning amendment map and the ordinance amending the official zoning map to the Larimer or Weld County Clerk and Recorder's Office for recordation.

D. *Criteria for amendments to the official zoning map*. For the purpose of establishing and maintaining sound, stable and desirable development within the Town, the Zoning Map shall not be amended except:

1. In the establishment of zoning to be consistent with the ~~conform to the~~ vision of the Future Land Use Map found in the most recently adopted Comprehensive Plan; and

2. The intent section found in the Subdivision and Land Use Section of this Chapter has been me~~a~~t as applicable to the particular zoning request; and at least one of the following:

a. To correct a manifest error in an ordinance establishing the zoning for a specific property;

b.~~2.~~ To rezone an area or extend the boundary of an existing district because of changed or changing conditions in a particular area or in the Town generally; or

c.~~3.~~ The land to be rezoned was zoned in error and as presently zoned is inconsistent with the policies and goals of the Town Comprehensive Plan; or

d.~~4.~~ The proposed rezoning is necessary to provide land for a community-related use that was not anticipated at the time of the adoption of the Town Comprehensive Plan, and the rezoning will be consistent with the policies and goals of the Comprehensive Plan; or

e.~~5.~~ The area requested for rezoning has changed or is changing to such a degree that it is in the public interest to encourage development or redevelopment of the area; or

f.~~6.~~ This declaration of criteria for zoning map amendments shall not control an amendment that occurs incidentally to a general revision of the zoning map; and

E. *Criteria for text amendments to the zoning code*. For the purpose of establishing and maintaining sound, stable and desirable development within the Town, the text of this Section shall not be amended except:

1. To correct a manifest error in the text of this Section; or
2. To provide for changes in administrative practices as may be necessary to accommodate changing needs of the community and the Town Staff; or
3. To accommodate innovations in land use and development practices that were not anticipated at the adoption of this Section; or
4. To further the implementation of the goals and objectives of the Town Comprehensive Plan.

F. *Map — Amendment upon zoning establishment or modification*. Upon enactment of any ordinance annexing and establishing zoning or modifying existing zoning for any property, and after the effective date thereof, the Town shall amend the prior existing official maps to include the annexed area with the proper zoning classification or show the amended classification, as the case may be. Such updated Zoning Map shall contain, in table form, the date and number of the ordinance amending it, the date the Map was amended to reflect each amendment and the initials of the person who checked and approved the change to the map.

G. *PUD Text Amendment to use current Design Standards*. It is anticipated that subdivisions previously approved with PUD zoning will seek amendments to those approved PUD documents in order to allow the subdivision to follow Design Standards as identified in this Chapter. Text amendments to previously approved Final Development Plans that seek to modify Design Standards in order to conform to the Design Standards of this Code will be processed as an Administrative act of the Town. Any such PUD amendments will be recorded at the respective County Clerk and Recorder.

SECTION 5 SUBDIVISION AND LAND USE REGULATIONS

30-5-101 Intent

This Section is designed and enacted for the purposes of promoting the health, safety, convenience, order, prosperity and welfare of the present and future inhabitants of the Town. The regulations contained in this Section shall be known and cited as the Berthoud Subdivision and Development Regulations and referred to in this Section 5 as the "Regulations". The term development when used in these Regulations means new development and redevelopment. Each new development application and each redevelopment application shall include a narrative describing how the proposal will:

A. Complement the Town's historic development patterns and fit into the context of the existing and planned development on surrounding properties.

   1. Street, sidewalk and trail alignment with adjoining developments and properties to ensure safe, efficient and pleasant walking, biking and driving experiences.
   2. Decrease dependency on vehicles.
   3. Existing and planned parks and open spaces in the development as well as in Town shall be connected by sidewalks and trails.
   4. The Parks, Trails and Open Space Master Plans were utilized in the development of the project.
   5. Compact, well-defined, sustainable neighborhoods to enhance the Town's character, complements the existing neighborhood and surrounding area.

B. Adhere to the vision established in the Comprehensive Plan, Land Development Code, Overlay Districts and Master Plans covering the property including:

   a. The Land Use Code and underlying zone district.
   b. The Land Use Code development and design standards.
   c. Architectural Guidelines.
   d. Landscape Design Guidelines.
   e. Engineering Standards and Specifications.
   f. Flood hazard mitigation.
   g. Geologic hazard mitigation.
   h. Other plans, specifications and guidelines that may impact the property.

C. Ensure there is sufficient provision for public utilities, services and facilities. The development shall be designed with consideration of the future needs as well as adequately managing the impact of the proposed development on the surrounding area and Town in general. Hazardous conditions on- and off-site shall not be created by the proposal.

   a. Water
   b. Sanitary Sewer
   c. Stormwater
   d. Electric and Natural Gas
   e. Schools

f. Fire Protection and Emergency Response

g. Public Transit

h. Traffic circulation

i. Pedestrian movement

j. Irrigation practices

D. Mitigate negative impacts of the development on the surrounding property:

a. Light

b. Air quality

c. The Oil and Gas regulation section of this Chapter

d. Sensitive natural, historic and environmental areas and properties

E. Address ~~There is~~ a need or desirability within Berthoud ~~for the proposed development~~ and the development proposal will help achieve a balance of land use, create a specific sense of place through place-making in each distinct neighborhood, provide a variety of housing types, meet architectural diversity standards, and integrate meaningful neighborhood identity features into the development according to Town goals.

F. Meet a~~A~~ll applicable local, state and federal permits have been or will be obtained.

G. Address ~~Regulating~~ such other matters as the Town may deem necessary in order to protect the best interest of the public.

30-5-102 General procedures

A. ~~Subdivision Regulations.~~ The procedures~~visions~~ of this Section shall apply to any and all proposals for the subdivision and the development of land within the municipal boundaries of the Town, unless expressly and specifically exempted or provided otherwise in this Code. No subdivision or development shall be undertaken without prior approval or authorization pursuant to the terms of this Code. All subdivision and development shall comply with the applicable terms, conditions, requirements, standards and procedures established in this Section and the Municipal Code. The submittal of an application for approval pursuant to the provisions of these ~~Subdivision~~ Regulations constitutes consent to, and agreement to comply with all of its applicable provisions.

B. This Section establishes procedural and substantive rules for reviewing applications for ~~obtaining the~~ necessary approvals to develop land and construct buildings and structures. Development applications will be reviewed for how they conform to ~~compliance with~~ the vision of the Town Comprehensive Plan, ,Master Plans affecting the property, and applicable guidelines and policies, and how they comply with the Zoning Code, ~~Parks and Open Space Master Plan, Trails Master Plan, Transportation Master Plan,~~ overlay districts applicable to ~~including~~ the property, Engineering standards and specifications, and applicable regulations~~, policies and other guidelines~~ as amended. The submittal of subdivision application for consideration pursuant to the provisions of these Subdivision Regulations constitutes an agreement and the implied consent of the owner or applicant to comply with all of its applicable provisions.

C. ~~Prior to formal submittal of any subdivision application identified in this Section, the applicant shall have a pre-application meeting with the Community Development Division. The procedures found in Table 3.10 shall be followed.~~ The application requirements for each development and subdivision type can be found in the Application Materials Tables and the following descriptions in this Section. Where site specific circumstances warrant a deviation from one or more specific application requirement, the Community Development Director may grant a waiver of such requirement(s). ~~Community~~

~~Development Department will typically provide to an applicant an individualized submittal checklist indicating the documents and information needed, quantities of those documents to be submitted, and the referral agencies that will be involved in the review process.~~

D. The applicants are responsible for being fully familiar with all applicable provisions of these ~~Subdivision r~~Regulations. At the time of submittal, the applicant shall~~s will~~ submit ~~submit~~ application materials in a form acceptable by the Town. ~~Upon determination by staff that a submittal constitutes a complete development application, the Town will forward the packets to each referral agency.~~ The application review process for each development and subdivision type can be found in the Land Use Processes and Procedures Table in this Section.

E. Should the applicant not provide a material response to staff comments within six months of the date of the most recent comments, the application shall be automatically closed and the applicant shall be required to reapply. Any unused development review fee funds shall be reimbursed within ninety (90) days of the application closure.

F. Should the application be approved, except where a vested right has been established in accordance with the Berthoud Development Code, and activity toward commencement of the project does not proceed forward within twelve (12) months of final notice of approval, the application shall be automatically voided.

G. The applicant shall provide the Town with finalized documents within thirty (30) days of the final public hearing or staff approval inclusive of plans, plats, mapping products, construction documents, easements, agreements and the Development Agreement.

30-5-103 Application Processes

The Town ~~of Berthoud~~ has many different application processes for land development and the subdivision of land. Applications for land development and applications for subdivision are also referred to in these Regulations as land use applications. This Section of the Development Code provides a reference to what the common application process steps are and the Subdivision and Land Use Processes and Procedures ~~a T~~table is a ~~to~~ guide to the required application process~~es~~~~ing requirements~~. The description of each process or procedure is described below.

A. Pre-application meeting: A pre-application meeting is ~~a~~ required~~ment for most application submittals as found in Table 3.10~~. The intent is to provide applicants with insight which may impact their applications, establish the process for application submittal, review application requirements and expectations, and to determine if the proposed use is consistent with the intent of the Land Use Code. The applicant shall provide an overview of their project and how the proposal meets the Town guidelines, standards, specifications and overlay district requirements. Staff may waive this requirement if the following applies:
   1. The required pre-application meeting for either a Preliminary Plat or a Final Plat may be waived if the preceding application is in process and close to completion, or received no material comments; and
   2. The required pre-application meeting for a Preliminary Plat is within four months of the approval of a Neighborhood Master Plan and the Neighborhood Master Plan received no material comments; or
   ~~1.~~3. The required pre-application meeting for a Final Plat is within four months following the approval of a Preliminary Plat and the Preliminary Plat received no material comments.

B. Administrative Review: Several land use applications may be reviewed through ~~following~~ an Administrative Review process~~ identified in Chapter 30~~. Land use applications that may have an Administrative Review option are listed in the Subdivision and Land Use Processes and Procedures Table~~ 3.10~~.

C. Application Submittal: The applicant shall submit the application materials required. Refer to the required application materials be submitted as part of the application. Where site specific circumstances warrant a deviation from one or more specific application requirements, the Community Development Director may grant a waiver of such requirement(s). ~~The applicant shall submit application materials required by this~~

~~Code; amended, additional or reduced materials required by the Pre-Application meeting.~~ The materials shall be submitted in a format and in the quantity required by the Town~~.~~.

D. Certification of Completeness: Within a reasonable period of time and upon receipt of a land use application, staff shall review the submitted materials in conformance with the pre-application meeting specifications, the Code requirements, requirements in Master Plans and applicable overlay districts, and to ensure materials are complete. Staff shall either certify the application is complete and in compliance with all submittal requirements or reject the submittal as incomplete and notify the applicant of any deficiencies. The Applicant shall then correct any deficiencies in the application package, if necessary, and resubmit the application to Town Staff who will review the submittal for completeness. ~~Materials requiring an original signature shall be signed in blue ink.~~

E. Notice to Surrounding/Affected Property Owners: Staff shall provide notice of a pending application and/or public hearing w~~W~~ithin the period of time established in the Hearing and Notification Section of this Chapter~~ode, Staff shall provide notice of a pending application~~. The applicant shall provide a mailing list of all surrounding and affected property owners to the Town along with the source of information used to generate the mailing list. Staff shall determine the format of the mailing list to be submitted. The mailing list shall be updated and provided to Staff within the time frame determined by Staff in accordance with the Hearing and Notification Section of this Chapter.

F. Public Review. The public may view the application ~~at Town Hall~~ and provide comments which shall be reviewed by Staff, provided to the Applicant, and provided in packet materials for the public hearing process. When written comments are received prior to the Public Hearing, the applicant shall address public comments in a report to be included with the record prior to the Public Hearing.

~~F.~~G. Notice of the mineral estate is the responsibility of the applicant. The applicant shall provide notice according to C.R.S. §§ 24-65.5-101, et seq. The Town shall be provided with the list of the mineral estate owners, source of the generated list (attorney or certified landman), and a copy of the notice provided prior to the hearing and included with hearing materials.

~~G.~~H. Referral Period: Within an appropriate timeframe following Certification of Completeness, Staff will ~~shall~~ send information about the application to ~~by regular mail to surrounding/affected property owners within a distance established in the Hearing and Notification Section of this Chapter which may include mineral interest owners of record, mineral and oil and gas lessees for the property, as specified in the public hearing and general notice provisions found in this Chapter. Other~~ parties of interest such as an established referral agency ~~shall also receive notification~~. Referral agencies ~~and owners of interest~~ shall have a set period of time to make comments. Comments shall be reviewed by Staff, provided to the a~~A~~pplicant, and provided in packet materials for the public hearing process. When comments are received prior to the Public Hearing, the applicant shall address public comments in a report to be included with the record prior to the Public Hearing.

1. The applicant shall address staff and referral agency comments within six (6) months of the date of the Staff Report. Should six months' time pass without adequate response from the applicant, the application shall be determined to be withdrawn. Remaining development fees shall be refunded.
2. Technical Review Meeting. Staff may determine if a meeting with specific referral agencies or with the Town is required prior to proceeding forward with submittals or public hearings. In the event Staff determines that a meeting with specific referral agency or agencies is needed, such meeting is required to be held before Staff procees forward with development review. The applicant may request a Technical Review Meeting and staff shall accommodate this request. If requested by the applicant, the applicant shall coordinate the attendance of referral agencies that are not part of the Town organization.
3. Criteria for Approval: Criteria for Approval is found in the Code section relative to each application process. Each new development application and each redevelopment application shall include a narrative describing how the proposal will meet the Intent section of these Regulations as well as the Criterial for Approval for specific application types.

I.~~H.~~ Public Hearing Publication: ~~The Town shall send notice of the Public Hearing according to the Hearing and Notification Section of this Chapter by regular mail to surrounding/affected property owners within a~~

~~distance established in the Hearing and Notification Section of this Chapter which may include mineral interest owners of record, mineral and oil and gas lessees for the property, as specified in the public hearing and general notice provisions found in this Chapter.~~ The Town shall ~~also~~ publish notice in a newspaper of general circulation of the upcoming public hearing(s) according to the Hearing and Notification Section of this Chapter.

J~~I~~. Sign Posting: After providing the Town with a sign deposit, the Applicant shall post a sign along all public road frontages. Timing for the sign posting can be found in the Hearing and Notification Section of this Chapter. The Applicant shall return the sign to the Town following the last Public Hearing concerning the proposed application. If the sign is damaged, the deposit shall not be returned to the Applicant.

K~~J~~. Planning Commission Hearing: If required, t~~T~~he Planning Commission shall hold a Public Hearing to review the land use application. The Planning Commission shall make a recommendation to the Board of Trustees to approve, conditionally approve or deny the application. The Planning Commission is the final Public Hearing on final plats~~Waivers and Final Plats~~. Notwithstanding that, the applicant may request the Board of Trustees notice and hold a public hearing and such public hearing on the final plat is necessary for purposes of creating a vested right pursuant to the Berthoud Development Code.

L. Town Board of Trustees Public Hearing: If required for the purpose of establishing a vested right, t~~T~~he Board of Trustees shall, after receiving the report and recommendation from the Planning Commission, hold a public hearing, after proper notice is given and act upon the proposed land use application. Following the Public Hearing, the Board shall consider the comments and evidence presented at the hearing, evaluate the application in accordance with the Criteria for Approval found in this Chapter and approve, approve with conditions or deny the application, in whole or in part.

M~~L~~. Ordinance or Resolution: Land use applications receiving a Public Hearing~~/Meeting~~ shall be approved by either a Resolution or Ordinance as outlined in the Subdivision Land Use Processes and Procedures Table.

N. Conditions of Approval and Recording: Prior to recording the documents for a land use application eligible for an administrative approval or those applications requiring a Public Hearing, the Applicant shall address all Conditions of Approval contained in the Staff Report and ~~or~~ the Ordinance or Resolution, as required. Once staff is satisfied that the Conditions of Approval have been met, appropriate documents shall be recorded with the office of either the Larimer or Weld County Clerk and Recorder.

~~N.~~O. Upon approval of any subdivision or land use application, the applicant has thirty days to finalize the materials and return documents to the Town for recording. If materials are not provided within this timeframe, the applicant may be considered void.

~~Table 3.10~~ Subdivision and Land Use Processes and Procedures Table

Application Process	Pre-application meeting	Application Submittal	Certification of Completeness	Notice, Publication and Sign Posting	Mineral Notice	Referral Period	Administrative Option	Planning Commission	Town Board of Trustees	Criteria for Approval	Ordinance/ Resolution	Conditions of Approval Addressed & Development Agreement	Record documents
Application Type													
Use by Special Review for Allowed Marijuana Business	Yes	Yes	Yes	Refer to the Hearing and Notification requirements Section of this Chapter of the Municipal Code	Yes	Yes	No	Yes	Yes	Yes	Resolution	Yes	Yes
Wireless Communication Facilities, use by right	Yes	Yes	Yes		No	Yes	Yes	No	No	Yes	No	Yes	Yes
Wireless Communication Facilities, Use by Special Review	Yes	Yes	Yes		No	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Wireless Communication Facilities, Eligible Facilities	Yes	Yes	Yes		No	Yes	Yes	No	No	Yes	No	Yes	Yes
Site Plan	Yes	Yes	Yes		No	Yes	Yes	No	No	Yes	Administrative	Yes	Yes
Variance~~s~~	Yes	Yes	Yes		No	Yes	No	Acting as BOA	Optional	Yes	Resolution	Yes	Record Resolution w/ Minutes as an attachment
Waiver	Yes	Yes	Yes		No	Yes	Optional	Yes	No	Yes	Resolution	Yes	Record Resolution w/ Minutes as an attachment
Annexation	Yes	Yes	Yes		Yes	Yes	No	No	Yes	Yes, also see C.R.S.	Ordinance	Yes	Yes
Zoning Amendment ~~and Amended PUD~~	Yes	Yes	Yes		No	Yes	No	Yes	Yes	Yes	Ordinance	Yes	Yes
Text Amendment to the Development Code	No	Yes	Yes		No	Optional	No	Yes	Yes	Yes	Ordinance	No	No
Neighborhood Master Plan ~~(to accompany Amended PUD)~~	Yes	Yes	Yes		Yes	Yes	No, Minor Amendment Optional	Yes	Yes	Yes	Resolution	Yes	Yes
Preliminary Plat	Yes	Yes	Yes		Yes	Yes	No	Yes	Yes	Yes	Resolution	Yes	Yes
Final Plat See additional steps for vesting	Yes	Yes	Yes		No	Yes	Yes~~No~~	Optional~~Yes~~	No	Yes	Optional~~Resolution~~	Yes	Yes
Minor Sub Plat	Yes	Yes	Yes		Yes	Yes	No	Yes	No	Yes	Resolution	Yes	Yes
Administrative Adjustment to recorded plats	Yes	Yes	Yes		No	Optional	Yes	No	No	Yes	No	Yes	Yes
Replat	Yes	Yes	Yes		No	Yes	No	Yes	Yes	Yes	Resolution	Yes	Yes
Home Occupation	No	Yes	Yes		No	Optional	Yes	No	No	No	No	Yes	No
Short-t~~-~~Term Rental	No	Yes	Yes	Refer to the Short Term Rental Section of this Chapter	No	No	Yes	No	No	Yes	No	No	No

NOTE: Processes with an "Optional" notation are for staff to determine the outcome of the step.

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30-5-104 Subdivision Application materials

A. Application submittal requirements: The following table outlines the submittal requirements and standards for each subdivision application type. A description of the application item follows the table below. At the discretion of the Community Development Director, and depending on the particular project and potential impacts to the community, the Town reserves the right to waive certain requirements and request additional materials based upon the details of the specific project. Waiver or the request of additional materials may be made at the Pre-Application meeting or during the development review process.

Subdivision Application Materials Table

Application item	Preliminary Plat	Final Plat	Minor Subdivision	Neighborhood Master Plan	Administrative Adjustment	Replat	Zoning
Application Forms and Fees	X	X	X	X	X	X	X
Property Ownership	X	X	X	X	X	X	X
Neighboring Property owner list	X	X	X	X	X	X	X
Plat/Mapping Products	X	X	X	X	X	X	X
Grading plan and drainage report	Preliminary	Final	Final	Concept	X		
Construction drawings	80%	100%	100%				
Landscape, irrigation, and open space plans	Preliminary	Final	Final	Concept			
Architectural Diversity Plan	Preliminary	Final	Final	Concept			
Narrative materials	X	X	X	X	X	X	X
Supporting Documents	Preliminary	Final	Final	Preliminary			X
Agreements	Preliminary	Final	Final	Concept			X

B. Descriptions of application materials for all Subdivision processes. The Town reserves the right to waive certain requirements and request additional materials based upon the details of the specific project. Waiver or the request of additional materials may be made at the Pre-Application meeting or during the development review process. All application materials shall be submitted in a method and format acceptable to the Town.

1. Application Forms and Fees
    a. Application Form provided by the Town
    b. Memorandum of Understanding for Development Review fees on a form provided by the Town
    c. Fees. The required application fees and any development review deposit fees will be provided to the applicant at the pre-application meeting. Fees are due upon submittal of the application.
2. Evidence of property ownership
    a. Title Commitment: Dated no more than 30 days from the date of application submittal.

3. Neighboring Property owner list
    a. A list of property owners and the source of the list in a format acceptable to the Town.
    b. Refer to the public hearing and general notice provisions section of this Chapter.
4. General standards for all mapping and platting products. All Plat/Mapping products shall contain the following elements and follow the standards listed below:
    a. Preparation
        a. Prepared by a Professional Land Surveyor licensed to do business in the state and shall be a neat, clear, legible and reproducible document. The plat/map submitted for recording shall contain the original signatures and seals in permanent ink. If the County recording the document will accept electronic signatures, these may be provided.
        b. All work shall comply with C.R.S. 38-50-101 and 38-51-101, et seq.
        c. All work shall comply with the requirements of the Bylaws and Rules of Procedure of the State Board of Registration for Professional Engineers and Professional Land Surveyors and the Rules of Professional Conduct of the State Board of Registration for Professional Engineers and Professional Land Surveyors – Board Policy Statement.
    b. Form for maps, plats, plans, engineering documents and report
        a. The document to be recorded should the project be approved shall be delineated in permanent black ink on a dimensionally stable polyester sheet such as Mylar, or other material as approved by the Town.
        b. Sheet specifications
            a. Each sheet shall be twenty-four (24) inches in height and thirty-six (36) inched in width.
            b. Drawn at a scale of one inch equals one hundred feet (1" = 100') or one inch equals two hundred feet (1" = 200').
            c. Project title shall be at the top of each sheet including:
                a. Project name
                b. Section, Township, Range, County of either Larimer or Weld, State of Colorado
            d. North arrow
            e. A statement of known engineering scale and a bar-type scale
            f. A statement defining lineal units
            g. Date of preparation
            h. Revision block which is updated with each submittal
            i. A legend designating all abbreviations, line types and symbols
            j. Names, telephone numbers, and addresses of the applicant, developer, engineer, surveyor and property owner. Application materials shall be signed by each prior to submittal
            k. A scale drawing of all boundaries of the entire subject property on one sheet and written property description of the exterior boundary of the subject property.
            l. Include acreage to the nearest one-hundredth (0.01) of an acre.
            m. All distances shall be shown to the nearest one hundredth (0.01) of a foot and bearings to the nearest second. All distances shall be given in ground, not grid, distance.
            n. All field-measured dimensions necessary to establish the boundaries on the ground and all dimensions for newly created lots necessary to establish the boundaries on the ground.
            o. Bearing, distance, and curve data for all lot boundaries. All curve data shall include arc length, radius, central angle, chord bearding and chord distance. Boundaries shall be clearly indicated on the plat. Recorded bearings and distances that vary with measured bearings and distances shall be shown in parentheses along with measured bearings and distances.
            p. The survey shown shall not have an error greater than one part in 10,000.

q. A basis of bearing statement.
r. The exterior boundary shall be tied to two (2) or more monumented public land survey monuments.
s. Location and a description of all monuments, both found and set, that mark the boundaries of the property.
t. Any conflicting boundary evidence (fences, conflicting monuments, physical features, etc.).
u. All recorded, proposed and apparent easements and rights-of-way, including the purpose, width, and location of all existing and proposed easements located on the property and adjacent to the property. A plat note may be necessary to provide complete information of the purpose of the easement. Proposed easements shall have bearings, distances, and curve data sufficient to allow them to be established on the ground. These shall be labeled and dimensioned.
v. All existing and proposed trails and sidewalks on and adjacent to the property (labeled and dimensioned).
w. The location of any oil and gas facilities within two thousand feet (2,000) of the project boundary, described by latitude and longitude.
x. Hydrologic features, including, but not limited to, irrigation canals and ditches on the subject property.
y. The limits of any Special Flood Hazard Area on the subject property, and the source of the information provided.
z. Limits of any areas of Geologic Hazard on the subject property, and the source of the information provided.
aa. Parcels excepted from inclusion noted as "not included in this subdivision" and the boundary completely indicated by bearings and distances.
bb. The names of property owners with the parcel boundary, parcel number and zoning classification of adjoining properties.
cc. Applicable plat certificates and notes provided by the Town.
dd. Topography at 2’ contour intervals. Source may be from the United States Geological Survey (USGS).
ee. Metes and bounds legal description of the subject property with closure statement and total acreage. The exterior boundary of the project and boundaries of all lots, tracts and outlots shall have a closure accuracy of one-hundredth (0.01) foot.

c. A land use table that details the following:
a. Total project acreage
b. Total number and total acreage of each lot, outlot, tract and block
c. Total acreage of each proposed zone district/character district
d. Total acreage of road rights-of-way
e. Total number of dwelling units for residential lots and dwelling density per acre and character district
f. Acreage of each different land use or zoning classification proposed
g. For commercial/industrial developments, include the floor area ratio and identify compliance with the Commercial and Industrial Standards section of this Code.
h. For residential developments include the housing diversity counts and percentages and identify compliance with the Residential Design Standards section of this Code.
i. Lot, track, outlot and block numbers shall be:
a. Numbered in ascending numerical and consecutive order beginning with “Lot 1,” for example

b. Include square footage or acreage to two decimal places of each lot or tract

d. Vicinity map
    a. Minimum scale of one inch equals two thousand feet (1" = 2,000')
    b. Illustrate adjoining properties for a distance of one-quarter (1/4) mile
    c. Provide a north arrow
    d. Delineate the project boundary
    e. Identify adjacent roads, municipal boundaries, ditches and irrigation systems, railroads, etc. which shall be labeled
    ~~e.~~f. Location of oil and gas facilities on the property and within one-half mile of the property boundary. The distances shall be dimensioned. If there are no facilities within this distance, note the source of findings.
    ~~f.~~g. The section and dashed quarter section lines shall be included and labeled

e. Development Overview Sheet. One sheet shall contain the following:
    a. Street layout
    b. Lot and Block arrangement
    c. Floodplain/Floodway
    d. Trails and sidewalks in relationship to neighboring properties and master plans impacting the project
    e. Project phasing plan, if proposed.

f. Index sheet shall be one sheet and contain the following:
    a. Street names
    b. Block and Lot arrangement and numbers
    c. Outlot and Tract numbers and arrangement
    d. Overlapping match lines, if necessary

g. Existing site conditions map.
    a. Show and label the physical characteristics and natural site constraints of the property and existing on-site structures, irrigation equipment, ditches, or laterals, utility lines, natural gas pipelines, overhead lines, railroads, easements and rights-of-way listed in title work, etc.

5. Construction Drawings
    a. Completeness expectations. Unless specified otherwise, all Construction Drawings and engineering documents shall be prepared according to the following expectations:
        a. 80% Plans will contain most civil engineering design elements such as site grading, drainage, utilities and roadways.
        ~~h.~~b. 100% plans are fully detailed with all civil engineering components finalized including precise calculations, material specifications and complete annotations for construction. All documents are to be fully-coordinated across disciplines inclusive of acreage cross-referencing, finalized alignment, profiles and details for elements like storm drains, roadways or retaining walls, for example.
    ~~c.~~b. Site improvements plan.
        a. Show and label the anticipated amenities including but not limited to mailbox pedestals, development identification signs, bus stop locations and shelters, parks, trails, sidewalks, common open space, conservation areas, art, fixtures, neighborhood identity features, etc.
        b. Street network and connectivity to the existing road network including all proposed access points; alley and road classification, plans and profiles.
        c. Include a table indicating the name of the entity who will maintain and own the amenities after the site has been released of warranty.
        d. Include an installation schedule.
        e. Provide a draft deed for public lands for dedication of public sites for open space or other civic purposes.

~~d.~~c. Utility plan. Refer to the Town of Berthoud Engineering and Infrastructure Design Standards and Construction Specifications for the details required for application submittal.

d. Grading Plan and Drainage Report. Refer to the Town of Berthoud Engineering and Infrastructure Design Standards and Construction Specifications for the details required for application submittal.

e. Lighting Plan prepared in accordance with the Outdoor Lighting and Dark Skies Section of this Chapter.

~~e.~~f. Geotechnical Report.

~~f.~~g. Geologic study. If upon referral to the Colorado Geologic Survey (CGS), the CGS requires a geologic study, then this report must be prepared by a registered professional engineer or professional geologist and shall address the following:

a. Site conditions
b. Geologic conditions
c. Engineering considerations and limitations
d. Additional investigations necessary per the CGS

~~5.~~6. Landscape, Irrigation, Parks and Open Space and Parking plan prepared in accordance with the Town's Landscape Design Guidelines and the Design Section of this Chapter and shall include:

a. Project name.
b. Scale, north arrow and date of preparation.
c. Existing and proposed streets and street names.
d. Lot lines, easements and public rights-of-way as shown on the subdivision plat, including gross and net area of all parcels.
e. Location of proposed building footprints and parking areas.
f. Location of storage, loading and service areas.
g. Existing and proposed two-foot contours (based on USGS datum).
h. General grading concepts for improvements, typical cross-sections of streets and special treatment areas.
i. Existing site features including ditches, trees, shrubs and groundcovers and any drainage ways, wetlands or wildlife habitat present on the site.
j. All existing trees within the proposed site and adjacent to the site must be accurately identified on the plan. Existing trees must be labeled as to their size, species and if they are intended to remain, be removed or transplanted. All replacement mitigation trees will need to be shown separately on the plan. Tree protection standards for existing trees to remain shall be included on the plan.
k. Natural features, wetlands, wildlife corridors, floodplains, streams, ditches and other waterways.
l. Define areas to be considered open space and if public or private. Indicate how open space will be maintained including: erosion control, revegetation, and weed management during and after construction.
m. The location of existing and proposed utilities and easements. Utility lines can be 'ghosted' in on the landscape plan to vary the line types for cleaner drawings.
n. Acreage and percentages of parks, trails and open spaces.
o. Landscaping around signage, structures and site amenities.
p. The extent and location of proposed trees, treelawns, shrubs, groundcovers, perennials turf, fences, walls, and other site amenities, for example. Plant materials are to be drawn at two-thirds of its mature size.
q. Landscape schedule [i.e. a table] including the represented plant symbol, Latin name, common name, planting size and number of individual plants. All plant materials are to meet the minimum size requirements as provided in this Code. Provide the percentage of each material to illustrate how the diversity standards are met.
r. Location of fences, walks, etc.

s. Proposed treatment of all ground surfaces must be clearly indicated, including turf, paving, mulch, native grass, seeded grass, etc. Grass areas are to be specified as seed or sod, and a seed mix/rate specified.
t. Detail drawings at 1" = 20' to illustrate typical perimeter treatment, buffering, front yard and any special treatment areas on site.
u. Sight distance triangles must be shown at street intersections pursuant to this Code.
v. Project specific landscape notes and details to ensure the proper planting, establishment and survival of plant materials. Additional notes detailing the warranty for plant materials and continued maintenance shall be included.
w. Proposed grading of the project site, including drainage swales, detention basins, retaining walls and any off-site infrastructure improvements.
x. Notes for conservation and retention of top soil and landscape soil preparation.
y. Restoration, revegetation or enhancement of disturbed natural areas or open space feature.
z. Park structures, signage, play equipment, and other landscape or park amenities and appurtenances.

aa. Buffering plan
   a. Dimensioned buffer areas
   b. Acreage of buffer areas
   ~~a.~~c. Proposed use of buffer areas

~~aa.~~bb. Park and open space plan
   a. Park and open space distribution and location with acreages and percentages
   b. Neighborhood identity features
   c. Required buffer areas
   d. Connection to regional trails, and trails and sidewalks located on adjacent properties

~~bb.~~cc. Pedestrian network
   a. Location of all trails and sidewalks, and connection to the regional trails system and sidewalks and trails on adjacent properties
   b. Plan for off-site sidewalk or trail improvements including ¼ mile pedestrian shed beyond the project boundary.
   c. Depiction of bike lanes or other multi-modal features.

dd. Provide a landscape maintenance plan inclusive of irrigation practices for different planting areas, weed control, replacement of diseased or dead materials, and mowing. Refer to the Landscape Guidelines. The landscape maintenance plan shall be submitted with the Final Plat.

ee. Irrigation Plan shall be prepared in accordance with the Town's Irrigation Plan Guidelines. The Irrigation Plan shall be submitted with the Final Plat.

~~cc.~~ff. Neighborhood identity features shall be identified and precedent images or product specifications are to be provided.

~~dd.~~gg. Parking plan in compliance with the parking section of the Design Standards found in this Chapter.

~~ee.~~hh. Hydrozone analysis shall detail the proposed consumption of potable and non-potable water for both interior and exterior uses. Indicate the intended source of water for potable and non-potable water uses. A table shall be created and placed on the Landscape Plan illustrating acreage per consumption type outlined in the Water Rights Dedication section of this Chapter. A sample table is included below as an illustration of the data required:

Project Name										
Hydrozone for landscaping common spaces prepared by:										
Proposed source of water:										
	Project acreage		Water demand		Total Acre-		Project acreage		Water demand		Total number

		X	in acre feet/ acre	=	feet of water needed			X	in SFE/acre	=	of SFE needed
Natural areas, open water, impervious surface			0						0		
Native seed area			0.8						2		
Lawn grass, playing fields, tree/shrub beds, etc.			3						7.5		
Non-turf vegetation			1.33						3.25		
Total quantity of acre-feet of water needed							Total quantity of SFE needed				

To complete the following table, refer to the Water Rights Dedication section of this Chapter and list the proposed lot sizes in the right hand column and then complete the table per the column titles.

Project Name			
Water Calculation for potable use prepared by:			
Proposed source of water:			
	If non-potable water is proposed for irrigation on individual lots, provide the quantity required in this column	If non-potable water is proposed for lot irrigation, provide the quantity of potable water required in this column	If potable water is proposed for both outdoor and indoor uses, provide the water required in this column
Lot size/ number of lots			
Lot size/ number of lots			
Lot size/ number of lots			
Lot size/ number of lots			
Total SFE required			

Raw water dedication. Prior to the issuance of a building permit, the applicant shall provide to the Town funds to purchase sufficient raw water or rights thereto for that permit. At the time of Final Plat, all water necessary for irrigation of parks, open space, golf courses, playing fields, and similar public areas shall be dedicated to the Town per this Code.

~~6.~~7. Architectural diversity plan/common architectural guidelines for non-residential projects inclusive of signage shall be provided.

a. Graphics or illustrations of proposed exterior elevations.
b. Provide complete building elevations, drawn to scale, with illustrations of all colors and identifying major materials to be used in the structure(s).
c. Building floor plans, sectional drawings, perspective drawings, models, and/or computer visualizations when the impacts of a proposal warrant such information.
d. Architectural standards for the development. Standards in addition to those found in the Town's Architectural Guidelines and Design Standards section of this Chapter shall be provided to illustrate a sense of place for individual developments.
e. Development sign plan.
    i. Provide a plan illustrating a unified sign plan for the development. Illustrate how the sign will be integrated into the overall site inclusive of landscaping, sight distance, etc.

~~7.~~8. Narrative materials.

a. The applicant shall state how the requirements of the Intent Section will be met if not exceeded.
b. General description of the plan to manage drainage and stormwater

c. Statements regarding utility provision (potable and non-potable water, sanitary sewer, stormwater management, dry utilities). Describe utility capacity and the need to extend or upgrade lines. Describe the source of water and the quantity of water needed.
d. Duplicate the landscape plan hydrazone analysis in narrative materials.
e. Describe how the landscape and irrigation plans meet the requirements of this Chapter, the Landscape Design Guidelines, and any overlay district the property is located within.
f. Describe key findings in the Traffic Impact Study inclusive of anticipated on- and off-site improvements and phasing for these improvements.

~~8.~~9. Supporting documents.

a. Traffic Impact Study. This study must be prepared by a professional traffic engineer and identify the project impacts to the local and regional traffic system. The direct roadway impacts and proposed share in the cost of regional improvements and intersections must be identified for the project.
b. Mineral, oil and gas documentation. Evidence that the surface owner has contacted all lessees of mineral, oil and gas rights associated with the site. Included in the evidence must be the name of the current contact person, their phone number, and mailing address for each of the mineral owners or lessees. Said evidence may be provided in a mineral interests report prepared by a certified landman, title company, or attorney. See C.R.S. . §§ 24-65.5-101, et seq.
c. Colorado Historical Society (CHS) records search. At the discretion of the Town and in consultation with the Berthoud Historic Preservation Advisory Committee (HPAC), an applicant may be required to provide the Town with a CHS records listing historically or archaeologically significant findings on the property being subdivided at their expense. If a listing shows a significant finding, a site-specific historic survey per the requirements of the CHS is required. If, in coordination with the applicant, the Town Board decides to protect any historic resource, a protection plan must be developed in consultation with the HPAC.
d. General ecological resource survey. Prepared by a qualified biologist, geologist, ecologist, or similar qualified professional, a survey identifying the potential/absence/habitat of a threatened or endangered species and wetlands or other ecologically sensitive area. Said survey shall make practical recommendations regarding treatment or mitigation of the findings.
e. Deed for public lands. The applicant shall submit to the Town a warranty deed and title insurance for all lands dedicated on the Final Plat and to be accepted by the Town.

10. Agreements. The following agreement shall be secured and provided to the Town when requested.

a. Development Agreement. Prior to recording the final subdivision approval document, the applicant shall enter into a Development Agreement with the Town for all public improvements including on-site and off-site improvements which may include and not be limited to water, sanitary sewer, non-potable water, stormwater, sidewalks, street trees, traffic improvements, for example. The Town Board of Trustees hereby delegates to the Town Administrator the authority to approve and sign all development agreements between the applicant and the Town. See the Development Agreement and the Construction of Public Improvements Sections of this Chapter.
b. Floodplain use permit from the Town.
c. Agreement with irrigation companies.
d. Other agreements that may be necessary to allow the subdivision of land to occur.

1. Additional materials. At the Town's discretion and depending on the proposed subdivision and its potential impact to the community, the Town may request additional materials.

30-5-105 Subdivision types

The Town of Berthoud has many different application types of subdivisions, each of which will be described in this section. The required application materials will be listed in the Subdivision Application Materials Table and narrative found in this section.

A. For all subdivisions, the following applies:

1. Application Process. Refer to the Land Use Processes and Procedures Table and narrative section.

2. Public Notice. Refer to the Public Hearing and General Notice Provisions Table.

3. Application Materials. Refer to the Subdivision Application Materials Table and narrative section.

4. Criteria for Approval. Refer to the Intent section as well as additional Criteria for Approval in each individual application type found below. The Criteria for Approval is used to evaluate if the application can be approved.

B. Minor Subdivision.

1. The Minor Subdivision provides a streamlined land division process that allows the creation of no more than six total lots, from one parent tract or lot ~~when,~~ that meet the requirements of this Code.

2. To be eligible for the Minor Subdivision process, the following shall apply: ~~is a process used to complete a subdivision, or an amendment to a subdivision, which has been previously platted, includes no additional public right-of-way dedication, and includes one or more of the following:~~

a. ~~The boundaries of six or fewer lots are created from one parent tract or lot, cumulatively; or~~

~~b. Any lot line adjustment with consolidation of multiple lots into one resulting parcel.~~

a. The property has been previously platted within the Town; and

b. The proposed project includes no additional public right-of-way dedication necessary for access to the development.

3. If denied, the applicant may appeal the Planning Commission's decision to the Town Board of Trustees.

1. *Timeframe related to approval of Minor Subdivision.* A Minor Subdivision is in full force and effect for one year ~~a period of three years~~ from date of recordation. Applicants may request a single, one-year extension from the Town prior to termination of Minor Subdivision approval. ~~Prior to the expiration of the original three-year timeframe or the extension (four-year total) timeframe, an Applicant may request an additional extension if substantial progress has been made on installation of Public Improvements.~~

C. Neighborhood Master Plan.

1. The Neighborhood Master Plan is a concept design of the development and shall be submitted with a Zoning, R~~r~~ezoning or Preliminary Plat application that includes a residential component, and depicts what the applicant envisions for the overall development, including zoning, transportation, pedestrian network, parks, open space, subdivision identity standards and other amenities, as well as precedent images. The Neighborhood Master Plan shall convey how the applicant has integrated the Town's master plans, architectural guidelines, landscape design guidelines, residential diversity standards, and neighborhood identity features, for example into their development proposal. The Neighborhood Master Plan is the method to describe how a proposed development fits into the context of Berthoud as a whole and the immediate surrounding areas, A Neighborhood Master Plan is not required for a Minor Subdivision.

a.Previously approved concept plans. Concept plans approved before the amendment of this section of the ordinance shall not be entitled to any vested development rights.

b.Timeframe related to approval of Neighborhood Master Plan. A Neighborhood Master P~~p~~lan is in full force and effect for one year~~a period of five years~~ from date of Town Board action. Applicants may request a single, one-year extension from the Town prior to termination of the Neighborhood Master Plan approval~~Any new zoning amendments shall require a new~~ Neighborhood Master Plan ~~approval. Major proposed changes to any approved~~ and the Preliminary Plat approval~~, will require a new Neighborhood Master Plan approval~~.

c. Minor amendments. Minor amendments to the Neighborhood Master Plan may be approved administratively under the following conditions:

1. Does not change any land use, or location of any land use.

2. Does not change the number of lots or density by more than ten percent.

3. Does not contain significant changes in arterial or collector street alignment and/or access points, or other major public elements such as drainage improvements, utility lines or facilities.

4. Does not change any measurable standard (other than above), such as open space, or park area, by more than ten percent.

D. Preliminary Plat~~n~~.

1. A Preliminary Pla~~n~~t is used to depict preliminary engineering studies, lot lines and construction documents. A Preliminary Plat~~n~~ illustrates how a subdivision meets the design and development requirements found in the Town Code inclusive of infrastructure, landscaping, traffic and lot lay-out.

2. Preliminary Plat Required: A Preliminary Plat is required for all subdivisions. No Final Plat will be processed or approved without prior Preliminary Plat approval.

3. Phasing. A Preliminary Plat shall designate the boundaries of phases for which separate Final Plats may ~~will~~ be presented for approval. Each phase, either alone or in conjunction with previously approved and recorded phases, must meet all of the requirements of this Code.

4. The Preliminary Plat~~n~~ shall be in substantial compliance with the approved Neighborhood Master Plan. For the purposes of this Code, "substantial conformance" includes design adjustments made to meet any conditions of the Neighborhood Master Plan approval, and is determined as follows:

a. Does not change any land use.

b. Does not change the number of lots or residential density by more than 5%.

c. Does not contain changes which would render the preliminary plan in nonconformance with requirements of this Code.

d. Does not contain significant changes in street alignment and/or access points, or other public elements such as drainage improvements, utility lines or facilities.

e. Does not change any measurable standard (other than above) by more than 15 percent.

f. How the Applicant has addressed comments received from the public, during the Public Comment portion of the process.

g. Preliminary Plats determined by the Community Development Director to have changes that exceed the definition of "substantial conformance" as above shall not be processed until a new Neighborhood Master Plan has been approved.

~~*5. Timeframe related to approval of Preliminary Plat.* A Preliminary Plat is in full force and effect for a period of three years from date of Town Board action to approve or approve with conditions. Approval will automatically expire at the end of three years unless an Applicant requests a one-year extension prior to termination, or submits a completed Final Plat application for all or a portion of the property. An Applicant may request one extension for a term of one year.~~

~~*6. Early grading.* After approval of a Preliminary Plat, Applicant may proceed with preliminary grading of the project area if a construction plan set for grading and drainage is approved and memo authorizing grading work is issued by the Town Engineer. Early grading is at the risk of the Applicant and no presumption of any Final Plat approval at the Planning Commission is expressed or implied by any authorization of early grading. The Town shall request surety from the applicant in a form acceptable to the Town to cover the cost of restabilizing the disturbed property and other work should the applicant not proceed with the development post disturbance.~~

5. Every approval of a Preliminary Plat by the Board of Trustees shall constitute the Board's delegation to the Mayor to sign the final plat accepting the dedications set forth therein.

6. In order to establish the three-year statutory vested right, the applicant must request a required public hearing on a site specific development plan before the Board of Trustees. The public hearing on the Preliminary Plat satisfies this requirement provided that the Final Plat is identical to the approved

Preliminary Plat. This means that the Final Plat is identical to the Preliminary Plat as submitted for the Public Hearing and incoproates only those modifications and conditions expressly provided for in the Preliminary Plat approving resolution. Notwithstanding any contrary provision, a Preliminary Plat is not a site specific development plan and no vested right is established by the approval of a Preliminary Plat.

E. Final Plat.

~~1.~~ 1. A Final Plat is used to complete the final engineering studies, lot lines and construction documents. A Final Plat illustrates how a subdivision meets the design and development requirements found in the Town Code inclusive of infrastructure, landscaping, traffic and lot lay-out.

2. The Final Plat must be in substantial conformance with the approved Preliminary Plat~~n~~ to receive an administrative review. For the purposes of this Code, "substantial conformance" includes design adjustments made to meet any conditions of the preliminary plan approval, and is determined as follows:

a. Does not change any land use.

b. Does not change the number of lots or residential density.

c. Does not contain changes which would render the Final Plat in nonconformance with requirements of this Code.

d. Does not contain significant changes in street alignment and/or access points, or other public elements such as parks, open space, public spaces, drainage improvements, utility lines or facilities.

e. Does not change any measurable standard (other than above) by more than 5 percent.

f. How the Applicant has addressed comments received from the public, during the Public Comment portion of the process.

g. How the Applicant has addressed conditions of approval, if any were imposed during the Preliminary Plat by the Planning Commission and/or the Town Board of Trustees.

h~~g~~. Final Plats determined by the Community Development Director to have changes that exceed the definition of "substantial conformance" as above shall be processed through to the Planning Commission for a public hearing for the Final Plat. ~~Preliminary Platthis Section~~ .

3. *Vesting; Fnal Plat Identical to Preliminary Plat*. In the event the Final Plat is identical to the approved Preliminary Plat, no additional public hearing is needed for the purposes of establishing a vested right. In such cases the Final Plat may be administratively approved and a vested property right of three years shall be deemed established upon the administrarive approval of the Final Plat except that the period of time permitted by law for the exercise of rights or referendum and judicial review shall begin to run until the date of publication, in a newspaper of the Town granting the approval.

4. *Vesting; Final Plat Not Identical to Preliminary Plat*. In the event the Final Plat is not identical to the approved Preliminary Plat, and the applicant desires that the Final Plat establish a vested right, the applicant may request the Board of Trustees notice and hold a public hearing on the final plat and where applicable in cases where the applicant requrest rights exceeing three years, the proposed development agreement, for purposes of establishing a vested right pursuant to the Berthoud Development Code.

i. ~~*Timeframe related to approval of Final Plat.* A Final Plat is in full force and effect for a period of three years from date of recordation. Applicants may request a single, one-year extension from the Town prior to termination of Final Plat approval. Prior to the expiration of the original three-year timeframe or the extension (four-year total) timeframe, an Applicant may request an additional extension if substantial progress has been made on installation of Public Improvements. Final Plat~~The following application materials are required:

i. Application Forms and Fees

1. Application Form provided by the Town

2. Memorandum of Understanding for Development Review fees on a form provided by the Town
3. Fees. The required application fees and any development review deposit fees will be provided to the applicant at the pre-application meeting. Fees are due upon submittal of the application.

ii. Evidence of property ownership
1. Title Commitment: Dated no more than 30 days from the date of application submittal.

iii. Neighboring Property owner list
1. A list of property owners and the source of the list in a format acceptable to the Town.
2. Refer to the public hearing and general notice provisions section of this Chapter.

iv. Letter of request for vesting

v. Approved Final Plat

vi. Approved Development Agreement

ii. The following process shall be followed for a vesting request of a Final Plat:

i. The standards established in the Public Hearing and General Notice Provisions Table shall be followed.

~~i.~~ii. After proper notice, a public hearing shall be held before the Town Trustees. The Town Board of Trustees may approve, approve with conditions, or deny the final plat.

5. Early grading. After submittal of the Final Plat, an applicant may request approval to proceed with preliminary grading of the project area under the following circumstances. The Town reserves the right to approve or deny the request. This is an option to be approved by the Town.

a. The construction documents must signed and stamped by a professional engineer licensed to practice in the State of Colorado. The plans shall include a construction plan set for grading and drainage and approved by the Town Engineer; and

b. The Town Engineering issues a memo authorizing specific grading work; and

c. The applicant accepts the risk of early grading and stormwater management / water quality feature installation; and

d. The applicant understands there is no presumption of any Final Plat approval expressed or implied by any authorization of early grading; and

e. The applicant shall enter into an Agreement with the Town including posting surety in a form acceptable to the Town along with a cost estimate of the work to be performed, the cost of restabilizing the disturbed property, and other work should the applicant not proceed with the development post disturbance; and

f. The applicant shall provide the Town with a Stormwater Management Plan approved by the Town Engineer and an approved Construction Stormwater Discharge Permit issued by the State of Colorado, if needed; and

f. The applicant shall hold a Pre-Construction meeting with Town representatives two weeks prior to work proceeding on site.

F. Replat

1. The Replat process provides for modifications to recorded plats. This process shall not be used to convey or create additional lots or tracts than originally existed.

2. This process shall be required for the following modifications to a recorded plat:

a. Any change to a condition or note on a plat;

b. The vacation of any right-of-way that results in a new lot configuration;

c. The vacation of rights-of-way and easements of record over which the Town Board of Trustees have jurisdiction that are no longer needed after complete review by all appropriate agencies; or

d. The relocation or dedication of new right-of-way within a previously recorded subdivision.

30-5-106 Administrative adjustment to recorded plats

A. *Administrative Adjustment purpose.* The purpose of the administrative adjustment is to allow adjustments to recorded Final Plats where there is anticipated to be no significant impact to the Town. The Town Administrator may determine that the Planning Commission should make the decision as to the adjustment of internal or external boundary lines if the adjustment would have a significant impact on the Town or the neighborhood.

B. *Administrative Adjustment allowed.* The Town Administrator is authorized to approve, execute and record plats where the following occur:

a. ~~Merger~~ Consolidation of any number of lots into a single lot,

~~b. Division of any lot into multiple lots,~~

b. ~~c.~~ Modification or reconfiguration ~~reduction of~~of the common property line between contiguous legal lots ~~interior lot lines~~ to reflect the generally recognized use of the property, or where they conform to the historic usage of the property.

~~d. Boundary line adjustments where they conform to the historic usage of the property and are agreed to in writing by all parties.~~

c. Minor corrections to recorded plats that do not involve lot consolidations or changing lot boundaries.

C. *Administrative Adjustment prohibited.* The Town Administrator is not authorized to approve, execute and record plats where the following occurs:

a. Result in the creation of additional lots;

b. Affect access, drainage or utility easements or rights-of-way serving the property or other properties in the area;

c. Create nonconforming resultant lots that do not meet the required minimum lot size standard of the applicable zone district;

d. Create a nonfonforming setback for any existing building;

e. A change to a condition or note on a plat; or

f. Where there is a change in land use or in the intensity of residential land use including for example:

i. From single-family to multi-family,

ii. From residential to commercial,

iii. From commercial to industrial, or

iv. Any other like change in land use.

~~b. Where lots are created that will require a zoning change or a zoning variance.~~

D. ~~F~~. *Application materials*. In addition to the application materials listed in the Subdivision Application Materials Table, a~~A~~ll owners of legal and equitable title shall execute before a Notary Public a petition stating they are the owners of equitable title to the property subject to the proposed ~~property~~ ~~subject to the proposed~~ administrative

adjustment request. ~~and that they wish to merge two or more adjoining lots into one lot~~. The petition shall also contain such additional information that the Town may deem appropriate.

~~In order to process any request for an administrative adjustment, the following materials shall be provided:~~

~~5) *Petition for administrative adjustment.* All owners of legal and equitable title shall execute before a Notary Public a petition stating they are the owners of equitable title to the property and that they wish to merge two or more adjoining lots into one lot. The petition shall also contain such additional information that the Town may deem appropriate.~~

30-5-107 Land Use Application Materials

A. The Town of Berthoud has many different types of applications to authorize use of property. Each type of land use application process will be described in this section. The required application materials will be listed in the Land Use Application Materials Table and narrative found in this section.

B. For all land use applications, the following applies:

1. Application Process. Refer to the Land Use Processes and Procedures Table and narrative section.

2. Public Notice. Refer to the Public Hearing and General Notice Provisions Table.

3. Criteria for Approval. Refer to the Intent section as well as additional Criteria for Approval in each individual application type found below. The Criteria for Approval is used to evaluate if the application can be approved.

4. Upon approval of any land use application, the applicant has thirty days to finalize the materials and return documents to the Town for recording. If materials are not provided within this timeframe, the applicant may be considered void.

5. The Town Administrator, the Community Development Director, or their designee may waive certain application requirements, or may require additional application requirements, for land use applications for development or redevelopment of property within either the Mountain Avenue Overlay District or the Innovation Overlay District. Rationale for waiving such requirements shall be documented in writing and filed with application materials with the application record. Rationale shall be relative to site-specific conditions, not due to inconvenience or applicant/owner-induced hardships.

C. Application materials for a Site Plan and Use by Special Review applications are listed below.

1. Application Forms and Fees
    a. Application Form provided by the Town
    b. Memorandum of Understanding for Development Review fees on a form provided by the Town
    c. Fees. The required application fees and any development review deposit fees will be provided to the applicant at the pre-application meeting. Fees are due upon submittal of the application.
2. Evidence of property ownership
    a. Title Commitment: Dated no more than 30 days from the date of application submittal.
3. Neighboring Property owner list
    a. A list of property owners and the source of the list in a format acceptable to the Town.
    b. Refer to the public hearing and general notice provisions section of Chapter 30 of the Berthoud Municipal Code.
4. General standards for all mapping products found in the subdivision section of this Code shall be used as a guideline for land use mapping products. Depending on the nature of the land use permit, some of the requirements for a subdivision are not applicable for land use. Each applicant should work with the Community Development Department regarding expectations of the mapping products for land use permitting.
5. Construction Drawings at the 100% level are required to be submitted with land use applications. These plans are to be fully detailed with all civil engineering components finalized including precise calculations, material specifications and complete annotations for construction. All documents are to be fully-coordinated across disciplines inclusive of accurate cross-referencing, finalized alignment,

profiles and details for elements like storm drains, roadways or retaining walls, for example. Applications should review the Construction Drawings requirements found in the Subdivision requirements section of this Code and shall be used as a guideline for land use construction drawings. Depending on the nature of the land use permit, some of the requirements for a subdivision are not applicable for land use. Each applicant should work with the Community Development Department regarding expectations of the mapping products for land use permitting.

a. Site improvements plan.
b. Utility plan. Refer to the Town of Berthoud Engineering and Infrastructure Design Standards and Construction Specifications for the details required for application submittal.
c. Grading Plan and Drainage Report. Refer to the Town of Berthoud Engineering and Infrastructure Design Standards and Construction Specifications for the details required for application submittal.
d. Lighting Plan prepared in accordance with the Outdoor Lighting and Dark Skies Section of this Chapter.
~~c.~~e. Geotechnical Report.
~~d.~~f. Geologic study. If upon referral to the Colorado Geologic Survey (CGS), the CGS requires a geologic study, then this report must be prepared by a registered professional engineer or professional geologist and shall address the following:
    i. Site conditions
    ii. Geologic conditions
    iii. Engineering considerations and limitations
    iv. Additional investigations necessary per the CGS

6. Landscape, Irrigation, Parks and Open Space and Parking plan prepared in accordance with the Town's Landscape Design Guidelines and the Design Section of this Chapter and shall include:
    i. Project name.
    ii. Scale, north arrow and date of preparation.
    iii. Existing and proposed streets and street names.
    iv. Lot lines, easements and public rights-of-way as shown on the subdivision plat, including gross and net area of all parcels.
    v. Location of proposed building footprints and parking areas.
    vi. Location of storage, loading and service areas.
    vii. Existing and proposed two-foot contours (based on USGS datum).
    viii. General grading concepts for improvements, typical cross-sections of streets and special treatment areas.
    ix. Existing site features including ditches, trees, shrubs and groundcovers and any drainage ways, wetlands or wildlife habitat present on the site.
    x. All existing trees within the proposed site and adjacent to the site must be accurately identified on the plan. Existing trees must be labeled as to their size, species and if they are intended to remain, be removed or transplanted. All replacement mitigation trees will need to be shown separately on the plan. Tree protection standards for existing trees to remain shall be included on the plan.
    xi. Natural features, wetlands, wildlife corridors, floodplains, streams, ditches and other waterways.
    xii. Define areas to be considered open space and if public or private. Indicate how open space will be maintainedeianed including: erosion control, revegetation, and weed management during and after construction.
    xiii. The location of existing and proposed utilities and easements. Utility lines can be 'ghosted' in on the landscape plan to vary the line types for cleaner drawings.
    xiv. Acreage and percentages of parks, trails and open spaces.
    xv. Landscaping around signage, structures and site amenities.

xvi. The extent and location of proposed trees, treelawns, shrubs, groundcovers, perennials turf, fences, walls, and other site amenities, for example. Plant materials are to be drawn at two-thirds of its mature size.

xvii. Landscape schedule [i.e. a table] including the represented plant symbol, Latin name, common name, planting size and number of individual plants. All plant materials are to meet the minimum size requirements as provided in this Code. Provide the percentage of each material to illustrate how the diversity standards are met.

xviii. Location of fences, walks, etc.

xix. Proposed treatment of all ground surfaces must be clearly indicated, including turf, paving, mulch, native grass, seeded grass, etc. Grass areas are to be specified as seed or sod, and a seed mix/rate specified.

xx. Detail drawings at 1" = 20' to illustrate typical perimeter treatment, buffering, front yard and any special treatment areas on site.

xxi. Sight distance triangles must be shown at street intersections pursuant to this Code.

xxii. Project specific landscape notes and details to ensure the proper planting, establishment and survival of plant materials. Additional notes detailing the warranty for plant materials and continued maintenance shall be included.

xxiii. Proposed grading of the project site, including drainage swales, detention basins, retaining walls and any off-site infrastructure improvements.

xxiv. Notes for conservation and retention of top soil and landscape soil preparation.

xxv. Restoration, revegetation or enhancement of disturbed natural areas or open space feature.

xxvi. Park structures, signage, play equipment, and other landscape or park amenities and appurtenances.

xxvii. Buffering plan

xxviii. Park and open space plan

a. Park and open space distribution and location with acreages and percentages
b. Neighborhood identity features
c. Required buffer areas
d. Connection to regional trails, and trails and sidewalks located on adjacent properties

xxix. Pedestrian network

a. Location of all trails and sidewalks, and connection to the regional trails system and sidewalks and trails on adjacent properties
b. Plan for off-site sidewalk or trail improvements including ¼ mile pedestrian shed beyond the project boundary.
c. Depiction of bike lanes or other multi-modal features.
d.

xxx. Provide a landscape maintenance plan inclusive of irrigation practices for different planting areas, weed control, replacement of diseased or dead materials, and mowing. Refer to the Landscape Guidelines.

xxxi. Irrigation Plan shall be prepared in accordance with the Town's Irrigation Plan Guidelines.

~~xxxi.~~xxxii. Neighborhood identity features shall be identified.

~~xxxii.~~xxxiii. Parking plan in compliance with the parking section of the Design Standards found in this Chapter.

~~xxxiii.~~xxxiv. Hydrozone analysis shall detail the proposed consumption of potable and non-potable water for both interior and exterior uses. Indicate the intended source of water for potable and non-potable water uses. A table shall be created and placed on the Landscape Plan illustrating acreage per consumption type outlined in the Water Rights Dedication section of this Chapter. A sample table is included below as an illustration of the data required:

Project Name

Hydrozone for landscaping common spaces prepared by:										
Proposed source of water:										
	Project acreage	X	Water demand in acre feet/ acre	=	Total Acre-feet of water needed		Project acreage	X	Water demand in SFE/acre	=	Total number of SFE needed
Natural areas, open water, impervious surface			0						0		
Native seed area			0.8						2		
Lawn grass, playing fields, tree/shrub beds, etc.			3						7.5		
Non-turf vegetation			1.33						3.25		
Total quantity of acre-feet of water needed							Total quantity of SFE needed				

To complete the following table, refer to the Water Rights Dedication section of this Chapter and list the proposed lot sizes in the right hand column and then complete the table per the column titles.

Project Name			
Water Calculation for potable use prepared by:			
Proposed source of water:			
	If non-potable water is proposed for irrigation on individual lots, provide the quantity required in this column	If non-potable water is proposed for lot irrigation, provide the quantity of potable water required in this column	If potable water is proposed for both outdoor and indoor uses, provide the water required in this column
Lot size/ number of lots			
Lot size/ number of lots			
Lot size/ number of lots			
Lot size/ number of lots			
Total SFE required			

Raw water dedication. Prior to the issuance of a building permit, the applicant shall provide to the Town funds to purchase sufficient raw water or rights thereto for that permit. At the time of Final Plat, all water necessary for irrigation of parks, open space, golf courses, playing fields, and similar public areas shall be dedicated to the Town per this Code.

7. Architectural diversity plan/common architectural guidelines for non-residential projects inclusive of signage shall be provided.
    a. Graphics or illustrations of proposed exterior elevations.
    b. Provide complete building elevations, drawn to scale, with illustrations of all colors and identifying major materials to be used in the structure(s).
    c. Building floor plans, sectional drawings, perspective drawings, models, and/or computer visualizations when the impacts of a proposal warrant such information.
    d. Architectural standards for the development. Standards in addition to those found in the Town's Architectural Guidelines and Design Standards section of this Chapter shall be provided to illustrate a sense of place for individual developments.
    e. Development sign plan.
        j. Provide a plan illustrating a unified sign plan for the development. Illustrate how the sign will be integrated into the overall site inclusive of landscaping, sight distance, etc.

8. Narrative materials.
    a. The applicant shall state how the requirements of the Intent Section will be met if not exceeded.
    b. General description of the plan to manage drainage and stormwater
    c. Statements regarding utility provision (potable and non-potable water, sanitary sewer, stormwater management, dry utilities). Describe utility capacity and the need to extend or upgrade lines. Describe the source of water and the quantity of water needed.
    d. Duplicate the landscape plan hydrazone analysis in narrative materials.
    e. Describe how the landscape and irrigation plans meet the requirements of this Chapter, the Landscape Design Guidelines, and any overlay district the property is located within.
    f. Describe key findings in the Traffic Impact Study inclusive of anticipated on- and off-site improvements and phasing for these improvements.
9. Supporting documents.
    a. Traffic Impact Study. This study must be prepared by a professional traffic engineer and identify the project impacts to the local and regional traffic system. The direct roadway impacts and proposed share in the cost of regional improvements and intersections must be identified for the project.
    b. Mineral, oil and gas documentation. Evidence that the surface owner has contacted all lessees of mineral, oil and gas rights associated with the site. Included in the evidence must be the name of the current contact person, their phone number, and mailing address for each of the mineral owners or lessees. Said evidence may be provided in a mineral interests report prepared by a certified landman, title company, or attorney. See C.R.S. §§ 24-65.5-101, et seq
    c. Colorado Historical Society (CHS) records search. At the discretion of the Town and in consultation with the Berthoud Historic Preservation Advisory Committee (HPAC), an applicant may be required to provide the Town with a CHS records listing historically or archaeologically significant findings on the property being subdivided at their expense. If a listing shows a significant finding, a site-specific historic survey per the requirements of the CHS is required. If, in coordination with the applicant, the Town Board decides to protect any historic resource, a protection plan must be developed in consultation with the HPAC.
    d. General ecological resource survey. Prepared by a qualified biologist, geologist, ecologist, or similar qualified professional, a survey identifying the potential/absence/habitat of a threatened or endangered species and wetlands or other ecologically sensitive area. Said survey shall make practical recommendations regarding treatment or mitigation of the findings.
    e. Deed for public lands. The applicant shall submit to the Town a warranty deed and title insurance for all lands dedicated on the Final Plat and to be accepted by the Town.
10. Agreements. The following agreement shall be secured and provided to the Town when requested.
    e. Development Agreement. Prior to recording the final subdivision approval document, the applicant shall enter into a Development Agreement with the Town for all public improvements including on-site and off-site improvmeents which may include and not be limited to water, sanitary sewer, non-potable water, stormwater, sidewalks, street trees, traffic improvements, for example. See the Development Agreement and the Construction of Public Improvements Sections of this Chapter.
    f. Floodplain use permit from the Town.
    g. Agreement with irrigation companies.
    h. Other agreements that may be necessary to allow the subdivision of land to occur.
2. Additional materials. At the Town's discretion and depending on the proposed subdivision and its potential impact to the community, the Town may request additional materials.

30-5-105 Land Use Application Types

~~A.~~ The Town of Berthoud has many different application types of land use applications, each of which will be described in this section. The required application materials are listed in the Land Use Application Materials Section.

~~B.~~A. Plot Plan. Plot plans illustrate the relationship of a building to the property. A plot plan is required to apply for a building permit. The plot plan shows where the proposed building or structure will be located on the lot as well as the architectural design of the structure so the Town can establish that the proposed location will comply with all applicable regulations. A plot plan must illustrate the building in relationship to the property including: the building footprint, the tree lawn, utility lines, driveways and curb cuts, sidewalks, utility boxes, irrigation lines, street signs, for example. Land use applications and a subdivision process may be required prior to filing an application for a building permit.

1. Site Plan. Site Plans illustrate the relationship of a building, access, site circulation, landscaping, easements, lighting, and parking, for example. The Site Plan shows how the lot will be developed so that the Town can ensure that the site design will be in compliance with all Town regulations and this Code. Approval of a Site Plan review application is a prerequisite to applying for a building permit for all new multi-family (excluding duplexes), commercial, and industrial developments. Refer to the Land Use Table for uses that may be contemplated through the Site Plan permit process. The standard administrative Site Plan review process is found in the Land Use Processes and Procedures Table. There are three alternatives to the administrative Site Plan and these are listed below.

a. The Site Plan Review application process may also be a requirement for redevelopment properties and the change of use of a property or structure. The Town Administrator, the Community Development Director, or their designee may waive certain application requirements for redevelopment of property within either the Mountain Avenue Overlay District or the Innovation Overlay District. Rationale for waiving such requirements shall be documented in writing and filed with application materials with the application record. Rationale shall be relative to site-specific conditions, not due to inconvenience or applicant/owner-induced hardships.

b. Site Plan applications may be referred to the Planning Commission for the Commission's review and action, based on a determination that the proposed development's complexity, projected impacts, or proximity to conflicting land uses merits such action.

i. The application and notice of the referral shall be sent to the Planning Commission for its review within a Public Hearing and action.

ii. Appeals of any Planning Commission final decision may be made to the Town Board acting as the Board of Appeals using the appeal procedures found in this Section

iii. *Board consideration of appeals.* The Board of Trustees shall consider any appeal within 45 days of the close of the 14-day appeal period, except an appeal associated with a concurrent development application requiring Board review or approval, shall be considered with final action on the concurrent development application. The Board shall apply the Site Plan review criteria to uphold, modify, or reverse an earlier decision.

a. Fast Track Site Plan applications for Multi-Family affordable housing developments and Mixed Use developments containing an affordable housing component.

i. Multi-family residential developments containing a minimum of fifty (50) percent of the units to be developed for affordable housing are eligible for the expedited review process outlined in the Town of Berthoud Expedited Site Plan GuidelinesI. Developers may utilize this fast track process or developers may utilize the standard Site Plan process when proposing an Affordable Housing development.

j. If a Variance is needed, the Variance Section of this Chapter shall be followed and processed concurrently with the Fast Track Site Plan.

ii. See the definition of Affordable housing in C.R.S. 29-32-101(2) and 29-32-105(2).

iv. To quality for the Town's fast track Site Plan process, the developer shall provide documentation on how the affordability and Area Median Income (AMI) standards

shall be maintained in perpetuity in a form acceptable to the Town. This information shall be provided during the pre-application process.

v. Fast Track Site Plan Review (and Variance process, if needed) begins at the time the applicant submits a complete application following the required pre-application process.

1. A complete application shall include the submittal of all Site Plan application materials listed in this Section inclusive of the 100% Construction Document Plans. These materials shall be completed according to site-specific directions provided during the pre-application process.
2. Staff shall have ten business days to determine if the application is complete. If the application is not complete, the applicant is afforded time to provide all necessary application materials.
3. The staff review time of 90 days shall start when the application is determined to be completed.
4. The Standard site plan review process shall be followed for referral agency review, public notice and preparation of the staff report.
5. The applicant shall receive a Notice of Decision found in the Staff Report for an Administrative Approval from the Community Development Director after the review period and the decision shall contain whether the application is approved or denied.
6. Modifications to an approved Fast Track Site Plan may require a new application to be made.

vi. The applicant shall enter into a Development Agreement, if necessary per the Development Agreement Section of this Chapter and the site-specific improvements necessary for the development. The process to enter into the the Development Agreement shall not exceed 90 days. Required elements of the Development Agreement shall be provided by the Town during the Site Plan pre-application process.

vii. The Building Permit process shall not exceed 90 days for review.

viii. Extensions to development review, development and finalization of a Development Agreement, and the Building Permit processing for a Fast Track project may be granted as described below:

a. The applicant may request a one-time 90-day extension;
b. An extension may be granted to allow time to comply with a state law or court order, which time shall be determined by the state law or court order;
c. An extension may be granted to allow time to address comments from an agency that has approval authority over the project and the review timeline adherence is outside the control of the Town of Berthoud;
d. The Town may extend it's review period by an additional 30 days in order to address additional comments or concerns that arise during development review. The Town may extend it's review period by multiple increments of 30 days, however it is not the intent of the Town to unnecessarily delay Fast Track development review. The applicant is encouraged to respond within five business days' receipt of the need to extend development review.

~~C. Site Plan. Approval of a Site Plan review application The Site Plan is a prerequisite to applying for a building permit for all multi-family (excluding duplexes), commercial, and industrial developments. Site PlanThe Site Plan shows how the lot will be developed so that the Town can ensure that the site design will be in compliance with all Town regulations and this Code. Refer to the Land Use Table for uses that may be contemplated through the Use by Special Review permit process.~~

~~1. SITE SPECIFIC DEVELOPMENT PLAN. This plan constitutes a site specific development plan as defined in Article 68 of Title 24, C.R.S., as amended, and Chapter 30 of the Berthoud Development Code available at the Berthoud Town Hall..~~

~~2. *Review and action.* The Town Administrator and Planner shall be responsible for processing all applications for Site Plan Reviews within the Town of Berthoud. The Town Administrator and Planner shall also have the responsibility of ensuring that all applications and submittal requirements are met prior to initiating any official action as listed above. The authority and responsibility for making the decision to approve, disapprove or approve with conditions all requests for a Site Plan review will rest with the Town Administrator. Site PlanThe Town Administrator may refer a Site Plan application to the Planning Commission for the Commission's review and action, based on a determination that the proposed development's complexity, projected impacts, or proximity to conflicting land uses merits such action. The application and notice of the referral shall be sent to the Planning Commission for its review within a Public Hearing and action. Appeals of any Planning Commission final decision may be made to the Town Board acting as the Board of Appeals using the appeal procedures found in Section 30-3-108.B. and~~

~~a. *Board consideration of appeals.* The Board of Trustees shall consider any appeal within 45 days of the close of the 14-day appeal period, except an appeal associated with a concurrent development application requiring Board review or approval, shall be considered with final action on the concurrent development application. The Board shall apply the Site Plan review criteria to uphold, modify, or reverse an earlier decision.~~

3. *Amendments to approved Site Plans.*

i. Minor variations in the location of structures, improvements, or open space areas caused by engineering or other unforeseen difficulties may be reviewed and approved by the Town Staff. Such changes shall not exceed ten percent of any measurable standard or modify the use, character, or density of an approved Site Plan. All plans so modified shall be revised to show the authorized changes and shall become a part of the permanent records of the Town.

ii. Changes to approved Site Plans that exceed the ten percent threshold, or other major modifications (such as changes in building size or footprint, relocation of access points, changes to required parking, etc.), shall be considered as a new Site Plan application. A complete Site Plan application shall be prepared and submitted in compliance with the requirements set forth in this Section.

B. Site Plan for Multi-Family affordable housing development. Residential developments containing a minimum of fifty (50) percent of the units to be developed for affordable housing are eligible for the expedited review process outlined in the Town of Berthoud Expedited Site Plan Guidelines. Affordable housing shall be defined as residential dwelling units at or below 60% Area Median Income (AMI) for rental properties and100% AMI for ownership properties. The applicant shall provide documentation on how these AMI standards will be maintained in perpetuity in a form acceptable to the Town with during the pre-application process.

1. Review begins at the time the applicant submits a complete application following the required pre-application process.
   a. A complete application shall include the submittal of all Site Plan application materials listed in this Section. These materials shall be completed according to directions provided during the pre-application process.
   b. Staff shall have ten business days to determine if the application is complete. If the application is not complete, the applicant is afforded time to provide all necessary application materials.
2. The expedited staff review time of 90 days shall start when the application is determined to be completed.

a. The Standard site plan review process shall be followed for referral agency review, public notice and preparation of the staff report.

b. Staff shall have the option of extending the 90-day review period by increments of 30-days if needed. The extension shall be a formal written extension prepared by the Community Development Department.

c. The applicant shall have the option of extending the 90-day review period by increments of 90-days if needed. The extension shall be in the form of a formal written request addressed to the Community Development Department.

3. The applicant shall receive a final decision on the application through a staff report which shall indicate if the application is approved or denied.

4. The applicant shall enter into a Development Agreement if necessary per the Development Agreement Section of this Chapter. The process of review for the Development Agreement shall not exceed 90 days. Required elements of the Development Agreement shall be provided by the Town during the Site Plan pre-application process.

~~D.~~C. ~~Site PlanUse by Special Review~~Use by Special Review. ~~In order to provide flexibility and to help diversify uses within a zoning district,~~ Certain uses listed in the Land Use Table are more intensive and are ~~specified uses are permitted in certain districts~~ subject to the granting of a Use by Special Review permit. ~~Refer to Table 3.3 for uses that may be contemplated through the~~ Use by Special Review. Because ~~permit process. .Because~~ of their unusual or special characteristics, Uses by Special Review ~~conditional uses require~~ review require additional ~~and~~ evaluation so that they may be located properly with respect to their effects on surrounding properties. Refer to the Land Use Table for uses that may be contemplated through the Use by Special Review permit process. ~~1.~~

1. ~~prescribed in this Section is intended to assure compatibility and harmonious development between conditional uses, surrounding properties and the Town at large.~~ Uses by Special Review ~~Conditional uses~~ may be permitted subject to such conditions and limitations as the Town may prescribe to ensure that the location and operation of the ~~conditional~~ use~~s~~ will be in accordance with the ~~conditional use criteria~~Intent section of this Chapter. The scope and elements of any ~~conditional use~~Use by Special Review may be limited or qualified by the conditions applicable to the specific property. Where conditions cannot be devised to achieve these objectives, applications for conditional use permits shall be denied.

~~Use by Special ReviewUse by Special Review~~E. ~~*Post approval actions for Site Plan and Use by Special Review Permits.*~~

a. *Building Permit.* A building permit shall be issued only when the land use permit has been approved. However, with the approval of the Town, an applicant may submit a building permit application concurrent with the land use application. Building permits shall not be issued for any development that is not in conformance with the approved land use application.

~~b. *Phasing and expiration of approval.* The~~ Site Plan ~~or~~ Use by Special Review ~~permit shall be effective for a period of three years from the date of approval, unless stated otherwise in the written~~ Site Plan ~~approval. Building permits shall not be issued based on~~ Site Plan~~s that have an approval date more than three years old. For multi-phased plans, building permits shall not be issued based on an approval date more than three years from the date of Phase I approval.~~

~~c.~~b. Development Agreement. Depending on the nature of the Land Use Permit and extent of public improvements needed, a Development Agreement may be needed. See the Development Agreement section of this Chapter.

~~d.~~c. *Amendments to approved Land Use Permits.*

iii. Minor variations in the location of structures, improvements, or open space areas caused by engineering or other unforeseen difficulties may be reviewed and approved by the Town Staff. Such changes shall not exceed ten percent of any measurable standard or modify the use, character, or density of an approved Site Plan. All plans so modified shall be revised to show the authorized changes and shall become a part of the permanent records of the Town.

iv. Changes that exceed the ten percent threshold, or other major modifications (such as changes in building size or footprint, relocation of access points, changes to required parking, etc.), shall be considered as a application. A complete application shall be prepared and submitted in compliance with the requirements set forth in this Section.

3. *Post approval actions for Site Plan and Use by Special Review Permits.*

d. *Building Permit.* A building permit shall be issued only when the land use permit has been approved. However, with the approval of the Town, an applicant may submit a building permit application concurrent with the land use application. Building permits shall not be issued for any development that is not in conformance with the approved land use application.

e. Development Agreement. Depending on the nature of the Land Use Permit and extent of public improvements needed, a Development Agreement may be needed. See the Development Agreement section of this Chapter.

f. *Amendments to approved Land Use Permits.*

v. Minor variations in the location of structures, improvements, or open space areas caused by engineering or other unforeseen difficulties may be reviewed and approved by the Town Staff. Such changes shall not exceed ten percent of any measurable standard or modify the use, character, or density of an approved Site Plan. All plans so modified shall be revised to show the authorized changes and shall become a part of the permanent records of the Town.

vi. Changes that exceed the ten percent threshold, or other major modifications (such as changes in building size or footprint, relocation of access points, changes to required parking, etc.), shall be considered as a application. A complete application shall be prepared and submitted in compliance with the requirements set forth in this Section.

~~iv.~~vii.

G. Accessory Uses and Structures

A. Purpose. This section establishes minimum standards for accessory uses and structures that are incidental and subordinate to principal uses. These standards are intended to minimize adverse impacts on surrounding properties and the community.

B. Intent. Accessory uses and structures are intended to allow property owners the full use of their property while maintaining the integrity of and character of the neighborhood and community. To accomplish these goals, accessory uses and buildings shall be erected and used only for purposes that are clearly secondary and incidental to the principal use of the property and shall be located on the same lot with the principal use.

C. Accessory Use and Structures Criteria. An accessory use or structure is normally incidental to a principal use. Accessory uses and structures shall comply with all the following criteria:

1. The accessory use shall be clearly incidental to and consistent with the principal use in the following measurements:

a. Lot/floor area devoted to the use or structure,

b. Economic production of the accessory use,

c. Traffic generation to the site, and

d. Customer/visitor generation

2. The accessory use shall be commonly associated with the operation of the principal use;

3. The accessory building/use shall be built and/or constructed only in conjunction with the principal use;

4. The accessory use shall be operated and maintained under the same ownership as the principal use; and

5. The accessory building shall not be used for living or sleeping unless the use meets the criteria of an Accessory Dwelling Unit as defined in the Additional Standards for Accessory Dwelling Units section below.

D. General Standards for All Accessory Uses and Structures.

1. Size. ~~i~~Accessory uses and structures shall not violate the dimensional, parking, landscaping, or open space standards of the applicable zoning district when taken together with the principal use or structure.

2. Timing. Accessory uses or structures are not allowed until the principal use or structure is established unless otherwise stated.

3. The accessory building shall adhere to the Dimensional and Bulk Standards of this Chapter.

E. ~~5~~Additional Standards for Accessory Dwelling Units. Unless otherwise noted in the Land Use Table of this Chapter an accessory dwelling unit in a detached building or in a portion of a single-family dwelling unit is allowed in those zoning districts where the use is listed as a use by right and where the use meets the following requirements:

1. ~~a~~ Occupancy.

a. ~~i~~The accessory living area may be occupied by one additional family as defined by this code, separate from the principal dwelling unit.

2. ~~b~~Number, Size, and Type.

a. ~~i~~Only one accessory dwelling unit is permitted per lot.

b. ~~ii~~The total square footage of the accessory dwelling unit shall not exceed 850-square feet.

c. ~~iii~~The accessory dwelling unit shall be located not forward of the principal dwelling, shall match the design of the principal dwelling, and shall follow the zone district setback standards.

d. Mobile homes and recreational vehicles shall not be used as accessory dwelling units.

e. The single-family character of the property shall be maintained.

2. Refer to the Impact Fee section of this Chapter.

~~E.~~D. ~~6.~~ Additional Standards for Home Occupations.

a. Purpose: The purpose of the Home Occupation Section ~~this section 30-3-112~~ is to regulate the conduct of operating business activity in a residence or other structure on the same property as a residence.

b. Home occupations must meet the following standards:

i. In addition to the family occupying the dwelling containing the home occupation, there shall not be more than one outside employee working at the site of the home occupation.

ii. The home occupation shall not exceed 1,000 square feet or 30 percent of the total floor area of the dwelling, whichever is less, or can be located in an accessory building not to exceed 500 square feet. The home occupation shall be conducted entirely within the dwelling or designated accessory building.

iii. The home occupation shall be clearly incidental and secondary to the use of the dwelling for dwelling purposes and must not change the residential character thereof.

iv. There shall be no change in the outside appearance of the building or premises or other visible evidence of the conduct of such home occupation, including advertising signs larger than two square feet in total size. No other displays or advertising that solicit or direct persons to the address other than the single sign limited to two square feet in total area is permitted.

v. There must be no exterior storage on the premises of material or equipment used as a part of the home occupation, unless it is enclosed and lot coverage requirements for accessory uses are met.

vi. No equipment or process shall be used in such home occupation which creates any glare, fumes, odors, smoke, noise or other conditions detectable to the normal senses off the lot, if the occupation is conducted in a single-family dwelling, or outside the dwelling unit if conducted in other than a single-family dwelling.

c. The following uses because of their tendency to go beyond the limits permitted for home occupations and thereby impair the use and value of the residential area shall not be permitted as home occupations:

i. Marijuana businesses including allowed marijuana business as defined in this Chapter

ii. Natural Medicine Center or Natural Medicine Business as defined in this Chapter

iii. Auto repair or motorized implement repair;

iv. Dance, music or other types of instruction (if more than four students being instructed at one time);

v. The painting of vehicles, trailers or boats;

vi. Private schools with organized classes;

vii. Welding shops;

viii. Nursing facility(ies);

ix. Retail or wholesale sales to consumers upon the premises not incidental to the home occupation (e.g. hair care products at a hair stylist are incidental sales).

d. All exterior aspects of the home occupation operation shall not disrupt the residential character of the area.

e. The maximum number of vehicle trips per day for clients which may visit the home occupation per day is 15.

f. A Home Occupation must maintain a Town of Berthoud Business License.

F. ~~7.~~ Additional Standards for Storage Buildings and Detached Garages.

1. ~~a~~Each lot may include detached storage buildings and detached garages for the sole use of the occupants of the principal building and the ~~or~~ principal use on the lot.

2. ~~b~~. ~~c~~ Only those buildings that are designed, constructed, and approved by the Town of Berthoud Building Division as storage buildings or detached garages may be used for this purpose.

3. ~~i~~Manufactured homes cannot be used as storage buildings, barns, or garages.

4. ~~ii~~Semi-trailer with attached running gear (i.e., axels, wheels) cannot be used as storage buildings or detached garages.

5. ~~iii~~Conex containers cannot be used as storage buildings or detached garages.

6. The total combined ground floor area of all accessory storage buildings and detached garages shall not exceed ten percent of the lot's net area.

30-5-108 Board of Adjustment

A. *Purpose*. Pursuant to §31-23-307(1), C.R.S., the Board of Trustees hereby appoints the Planning Commission of the Town of Berthoud to serve as the Board of Adjustment. The Board of Adjustment shall hear and decide variances, waiver requests, and appeals from and review any order, requirement, decision, or determination made by any administrative official charged with the enforcement of any ordinance with respect to the Development Code of the Town of Berthoud.

B. The Board of Adjustment shall have the following powers and duties, all of which shall be subject to and in compliance with the laws of the state, in harmony with the purpose and intent of this code and the most appropriate development of the neighborhood:

1. To hear and decide appeals from, and review any order, requirement, decision or determination made by an administrative official charged with enforcement of the provisions of this code;

2. To authorize variances from the terms of the Design Standards, Zoning, ~~;~~ and Sign regulations~~s~~ sections of this Chapter, where the strict enforcement of this title would create a situation which would result in unreasonable application of these standards. When considering variances, the Board of Adjustment shall consider the following criteria: ~~, considering whether:~~

   a. The intent statements found in this Section have been met; and

   b. The hardship was not created by the actions of the proponent. ~~If the hardship on which the request for variance is based, in whole or in part, is self-inflicted, that will be a highly significant fact which is a material element bearing on the issue, and will weigh heavily against the owner or applicant seeking the variance; and~~

   b. Such relief may be granted without substantial detriment to the neighborhood or the public good and without substantially impairing the intent and purposes of this code; and

   c. Provided that there are exceptional circumstances applying to the specific piece of property which do not generally apply to the remaining property in the same zoning area or neighborhood; and

   d. That the requested variance shall not authorize any permanent use not permitted in the zoning district; and

   e. In circumstances where the property owners affected most directly, e.g. neighbors, concur in writing with the variance that fact shall be given significant (but not conclusive) weight in favor of the request.

3. To authorize, as variances, alterations in nonconforming uses and buildings. ~~,~~ An altered nonconfo~~i~~rming use previously authorized that has been discontinued for at least six months~~one year~~ that~~shall~~ has not been resumed or replaced by another nonconforming unless an extension of time is requested in writing prior to the expiration of the six month~~one year~~ period. Nonconforming uses resuming after the six month~~one year~~ expiration period will be required to applyfor the use through a new application and approval process. Alterations in nonconforming uses and buildings shall be authorized provided the B~~b~~oard of A~~a~~djustment determines:

   a. That the intent statements found in this Section have been met; and

   b. That the hardship on which the request for variance is based is not self-inflicted; and

   c~~b~~. That the ~~total area devoted to the~~ altered nonconforming use will not be greater ~~than the total area devoted to~~in size, area, or impact than the original ~~the current~~ nonconforming use, and

   d~~b~~. The altered nonconforming building or use will not have any greater adverse impact on the neighborhood than the current nonconforming building or use.

4. To authorize, as waivers, all or portions of the following processes in regards to platting, zoning and design standards for multiple lots from the Development Code of the Town of Berthoud with respect to the requirements of the following chapters only: Design Standards, Zoning, or Signs;

   ~~a. Subdivision procedures in conjunction with the Preliminary Platrequirements, and;~~

   b. Zoning regulations limited to setback encroachments or height limitations in conjunction with a Preliminary Plat approval, and;

   c. Design Standards limited to Site Plan, Preliminary Plat, or Use by Special Review application and approval criteria.

5. *Waivers.* Waivers shall be considered provided that the following procedures and considerations are met;

a. *Waiver applications.* The applicant shall submit the following to the Town in conjunction with another application (re-zoning or Site Plan, Use by Special Review or Preliminary Plat only). All other cases shall follow the variance procedures.

i. Explanation letter — identifying the waiver being requested and explaining what exceptional condition, practical difficulty, or unnecessary hardship exists to require the waiver. The letter shall also address how the waiver, if granted, will not be detrimental to the public good, create a conflict with the Town Comprehensive Plan or impair the intent and purpose of this Code.

a. The Subdivision and Land Use Process and Procedures Table 3.10 shall be followed.
b. Notice shall be given in accordance with the public hearing and general notice provisions found in this Chapter.
c. Unless otherwise stated in the Resolution, all waivers granted shall be commenced within six months of the time such waiver is granted; otherwise the waiver shall be null and void.

~~5. *Criteria for approval of variances and waivers.* The condition of any variance or waiver authorized shall be stated in writing in the minutes of the Board with the justifications set forth. Waivers and variances may be granted only if they meet one of the following criteria:~~

~~b. That the hardship on which the request for variance or waiver is based is not self-inflicted.~~

~~c. The variance or waiver, if granted, will not alter the essential character of the neighborhood or district in which the property is located, nor diminish the value, use or enjoyment of adjacent property.~~

~~d. The variance or waiver, if granted, is the minimum variance or waiver of applicable Code provision that will afford relief and is the least modification possible of the Code provisions which are in question.~~

~~e. That such practical difficulties or unnecessary hardship has not been created by the applicant.~~

~~f. The variance or waiver would substantially alleviate an existing, defined and described problem of Town-wide concern or would result in a substantial benefit to the Town by reason of the fact that the proposed project would address an important community need.~~

~~g. The plan as submitted will promote the general purpose of the standard for which the modification is requested, equally well or better than a plan which complies with the standard for which a modification is requested.~~

6~~4~~5. To perform each and all of the duties specified in section 31-23-307 C.R.S., together with all other duties or authority which may hereafter be conferred on it by the laws of the state.

C. 5~~6~~. ~~The~~ The Board of Trustees reserves the authority to act as the Board of Adjustment with respect to all matters in the Development Code and as allowed per Section 31-23-307 C.R.S, specifically:

1~~a~~. All variances not related to Design Standards; Zoning, and Signs.

2~~b~~. All appeals not related to Design Standards; Zoning, and Signs.

3~~c~~. Appeals of Final Plats: Appeals of actions of staff ~~Planning Commission~~ regarding Final Plats shall be taken to the Planning Commission ~~Town Board~~ after the filing of an appeal to the Town within ten days of the date of staff's ~~the Planning Commission's~~ decision on the Final Plat. Appeals may be filed by the applicant or any abutting property owner and shall specifically state the grounds for appeal. The Planning Commission ~~Town Board~~ shall consider the appeal as a new matter and act to approve, approve with conditions, or deny the Final Plat based on the review and approval

criteria that apply to all Final Plats. Any timely appeal received must be scheduled immediately for review at the next available ~~Town Board~~Planning Commission meeting, but in no event later than 30 days.

D~~B~~. *Procedures generally*. The board of adjustment shall hold a public hearing on all applications and appeals, subject to the following:

1. The procedures found in the Subdivision and Land Use Process and Procedures Table ~~3.10~~ shall be followed.
2. Notice shall be given in accordance with the public hearing and general notice provisions found in this Chapter. .
3. Unless otherwise stated in the Resolution, all variances granted shall be commenced within six months of the time such variance is granted; otherwise the variance shall be null and void.
4. The concurring vote of a majority of the board of adjustment shall be necessary to reverse any order, requirement, decision, or determination of any administrative official, or to decide in favor of the applicant in order to implement a variance.
5. *Criteria for approval of variances and waivers.* The condition of any variance or waiver authorized shall be stated in writing in the minutes of the Board with the justifications set forth. Waivers and variances may be granted only if they meet one of the following criteria:
   a. That the hardship on which the request for variance or waiver is based is not self-inflicted.
   b. The variance or waiver, if granted, will not alter the essential character of the neighborhood or district in which the property is located, nor diminish the value, use or enjoyment of adjacent property.
   c. The variance or waiver, if granted, is the minimum variance or waiver of applicable Code provision that will afford relief and is the least modification possible of the Code provisions which are in question.
   d. That such practical difficulties or unnecessary hardship has not been created by the applicant.
   e. The variance or waiver would substantially alleviate an existing, defined and described problem of Town-wide concern or would result in a substantial benefit to the Town by reason of the fact that the proposed project would address an important community need.
   f. The plan as submitted will promote the general purpose of the standard for which the modification is requested, equally well or better than a plan which complies with the standard for which a modification is requested.

C. *Appeal procedures*. Every appeal to the board of adjustment shall be filed in writing not later than one month from the date of the order, requirement, decision, or determination being appealed. The board shall have no jurisdiction on any appeal not brought within 30 days from the date of the order, requirement, decision, or determination.

D. *Administrative Variances*. The Community Development Director is authorized to approve administrative variances from setback requirements up to ten percent of the required setback after finding the proposed setback is consistent with the intent and purpose of this code, and the requirements of this Section.

30-5-114 Development agreements

A. *Agreements and Improvements.* A Development Agreement stating that the applicant covenants and agrees to construct any required public improvements shown in the land use or subdivision Final Plat documents

together with security in a form approved by the Town is required. No subdivision plat ~~(except for Conveyance)~~ shall be signed by the Town or recorded at the office of the Larimer or Weld County Clerk, and no building permit shall be issued for development until a Development Agreement between the Town and the applicant has been executed. Such agreement shall include a list of all agreed-upon public improvements and landscaping, an estimate of the cost of such improvements, the form of guarantee for the improvements, and any other provisions or conditions deemed necessary ~~by the Board~~ to ensure that all improvements will be completed in a timely, quality and cost-effective manner.

B. Other agreements or contracts setting forth the plan, method and parties responsible for the construction of any required public improvements shown in the Final Plat documents may also be required.

C. As required by this Code and all applicable laws, rules and regulations, the applicant shall apply to the Town for inspection of improvements.

D. The following improvements shall typically be constructed as determined by the Town:

1. Road grading and surfacing.
2. Curbs.
3. Street lights.
4. Sidewalks.
5. Sanitary sewer collection system.
6. Storm sewers or storm drainage system, as required.
7. Potable water distribution system.
8. Non-potable water distribution system.
9. Fire hydrants.
10. Utility distribution system for public parks and open space.
11. Street signs at all street intersections.
12. Permanent reference monuments and monument boxes.
13. Underground telephone, telecommunications, cable, electricity and gas lines.
14. Berm or fence along major arterial and collector streets.
15. Required landscaping including on open space.
16. Required landscaping including park improvements.
17. Tree lawns.
18. Under drains.
19. Trails, trail heads and associated improvements.
20. Required floodway improvements.
21. Required irrigation ditch improvements.
22. Required off-site improvements.
23. Any and all improvements not mentioned above.

E. *Time for completion.* Unless a vested right is established in accordance with the Berthoud Development Code, c~~C~~ommencement of construction of all or a portion of the approved Final Plat shall occur within one

yearthree years from the date of recordation of said Final Plat. The required time for the completion of all required improvements for all or a portion of said Final Plat shall be twohree years from Town's issuance of a grading or other permit to commence construction. However, the Board may, for good cause shown, extend such time for commencement or completion of the required improvements upon request from the applicant. Upon completion of such improvements within the required time and approval thereof by the Town, the Town shall cause the cash or letter of credit to be released within 30 days of the Town's acceptance of such improvements and receipt of the required as-built drawings. When such improvements are not completed within the required time, the Town may cause the proceeds of the cash, letter of credit or other financial guarantee to be used to close or complete the required improvements in accordance with the terms and provisions of the Development Agreement.

F. *Type and amount of security.* The Town will accept security or collateral in the following types and amounts:

1. Payment and performance bonds in the amount of 100 percent of the cost of improvements plus 15 percent contingency, or

2. Cash, certified funds, irrevocable letter of credit, or other form of security as approved by the Town in the amount of 25 percent of the cost of improvements plus contingency.

G. *No partial release of security.* No portion of the security for improvements will be released until the expiration of the warranty period. The required warranty period shall commence upon completion and initial approval of all required improvements and landscaping in accordance with the terms and provisions of the Development Agreement.

H. *Warranty.* All workmanship and materials for required improvements shall be warranted for a minimum period of two years as specified in the Development Agreement and this Code.

~~I. *Exception for trees within public right-of-way.* Builders or owners of residential properties shall plant street trees per this Code prior to the issuance of any certificate of occupancy. If weather prevents timely planting of street trees, funds in an amount and form acceptable to the Town for planting of such trees at a later time must be placed in escrow with the Town prior to issuance of a certificate of occupancy. Warranty for all street trees shall be two years from date of planting.~~

J. *Platting Required.* No Final Plat shall be recorded until the Developer and, if applicable, the Metropolitan District have executed a satisfactory Development Agreement with the Town providing for the installation of all public infrastructure required for the development as set forth in the Plat. In addition, no Development Agreement shall be recorded until all on and off-site easements and rights of way necessary for all public improvements have been acquired, and a Landscape Plan has been approved by the Town.

30-5-116 Pre-Construction Activities and Responsibility of Construction of Public Improvements

~~A.~~B. Prior to the pre-construction meeting, the issuance of a building permit or the issuance of a grading permit, the following documents shall be provided to the Town as needed for the particular development:

~~1.~~5. Surety or collateral in a form acceptable to the Town in the amount and form stipulated in the Development Agreement and guaranteeing adequate safe closure or completion of all public improvements for each phase of construction necessary for the subdivision. The amount of the security shall be either a Payment and Performance Bond in the amount of 100 percent of the estimated cost of public improvements or a Letter of Credit or other acceptable collateral in the amount of 25 percent of the estimated cost as approved by the Town Engineer for constructing all public improvements, unless otherwise provided for in an approved Development Agreement as described in Section 30-6-112 of this Code. Oil and gas surface use agreement.

a. Raw water dedication. The applicant shall provide payment or water to the Town in accordance with the Water Rights Dedication Section of this Code.

~~2.~~6. List of contractors. List of all contractors that will be performing the improvements.

~~3.~~7. Proof of insurance. Proof of workman's comprehensive insurance and liability insurance for each contractor.

a. An approved adjudication of water rights and a plan of augmentation.
b. A FEMA approved application (i.e., Conditional Letter of Map Revisions [CLOMR] or Letter of Map Revisions [LOMR]).
c. A Town-approved Flood Development Permit.

2. Documentation identifying who will own and maintain open spaces. Funding mechanism for maintenance of open space including type of management of such open space.
   a. Fully-executed deed for public lands for dedication of public sites for open space or other civic purposes.
3. Right-of way permits from the Town.
4. A State Highway utility permit from CDOT.
5. A State Highway access permit from CDOT.
6. A construction dewatering permit from the Colorado Department of Public Health and Environment.
7. SWMP
8. A 404 Permit from the Army Corps of Engineers.
9. An Air Pollution Emission Notice (APEN) from the Colo. Department of Public Health and Environment.
10. A permit for work in any ditch right-of-ways from individual ditch companies.
11. Open space deed restriction. Areas designated as open space shall be protected by a deed restriction or other appropriate method to ensure that they cannot be subdivided or developed in the future and will remain as open space until the use is modified by the Town.
12. Construction traffic control plan. Applicant will develop a plan for Town Engineer review that addresses construction traffic, construction water, temporary road closures, street repairs, dust, noise and other construction-related concerns.
13. Other agreements, certificates, affidavits, enforcements or deductions as required by the Town.

B. Failure to comply with the Town's Municipal Separate Storm Sewer System (MS4) requirements shall result in stop-work orders and an inability to receive building permits and development review and subdivision approvals for future development.

30-5-117 Certification Blocks

A. Preliminary Plat, Final Plat and Replat Applications

LEGAL DESCRIPTION AND DEDICATION:

KNOW ALL PERSONS BY THESE PRESENTS: That the undersigned, being the owners of _____, located in Section _____, Township_____, Range_____ of the 6th Principal Meridian, Town of Berthoud, County of _____, State of Colorado, more particularly described as follows:

(LEGAL DESCRIPTION)

Have laid out, platted, and subdivided the above described land, under the name and style of _____, and by these presents do dedicate to the Town of Berthoud in fee simple the street and public "rights-of-way" as shown on the plats, and grant to the Town of Berthoud such easements and rights-of-way as are created hereby and depicted or, by note, referenced hereon, along with the right to install, maintain, replace and operate mains, transmission lines, service lines, and appurtenances, either directly or through the various public utilities, as may be necessary to provide such utility, cable television, water, electric, natural gas and sanitary services within this subdivision or property contiguous thereto, through, over, under, and across streets, utility and other easements, and other public places as shown on the plat. The sole right and authority to release or convey all or any such easements and right-of-way shall remain exclusively vested in the Town of Berthoud. All easements shall retain

the right of ingress and egress for construction and maintenance of improvements. No permanent structures except fencing upon Town approval shall be allowed on any easement.

If owner is an individual(s):

Owner: John Doe

_____

If owner is a corporation, limited liability company, partnership, association or other business entity:

Owner: The ABC Corporation, a Colorado corporation

_____

By: John Doe, President

If owner is a trust:

Owner: The Jane Smith Trust

_____

By: John Doe, as trustee of the Jane Smith Trust

LIENHOLDER'S DEDICATION: The undersigned mortgagee, for good and valuable consideration does by these presents, hereby subordinate all of its rights to such fee simple dedications and grants of easements to the Town of Berthoud as are depicted and referenced hereon and to the terms and conditions of the development agreement and this Final Plat and agrees that the development agreement and this Final Plat shall constitute a first and prior lien upon the (project name) to the same extent as though it were actually executed and recorded prior to said lien or deed of trust.

DATE: _____
LENDER'S NAME

BY: _____

TITLE: _____

SURVEYOR'S CERTIFICATE:

I, _____, a Registered Land Surveyor in the State of Colorado, do hereby certify that the survey of _____ was made under my supervision and the accompanying plat accurately and properly shows said subdivision and is in compliance with the Subdivision Regulations of the Town of Berthoud.

_____
(Name, Registered Land Surveyors)
(Number)

RIGHT TO FARM STATEMENT: The Town of Berthoud has adopted a "Right to Farm" policy. All new and existing residents are expected to read and understand the policy. For a copy of the policy, please contact the Town of Berthoud.

SITE SPECIFIC DEVELOPMENT PLAN: ONLY FOR FINAL PLATS AND USES BY SPECIAL REVIEW WHICH VESTED RIGHTS HAVE BEEN ESTABLISHED IN ACCORDANCE WITH THE PROCEDURES AND APPROVALS REQUIRED BY THE BERTHOUD DEVELOPMETN CODE.

This plan/final plat constitutes a site specific development plan as defined in Article 68 of Title 24, C.R.S., as amended, and Chapter 30 of the Berthoud Development Code available at the Berthoud Town Hall, 807 Mountain Ave., Berthoud, Colorado 80513.

APPROVAL CERTIFICATES:

Approved by the Town of Berthoud, Colorado, this _____ day of _____, 20_____.

_____
Mayor

The foregoing plat is approved for filing and accepted by the Town of Berthoud, Colorado, this _____ day of _____, 20_____.

ATTEST: _____
Town Clerk

Approved by the Planning Commission of the Town of Berthoud, Colorado this _____day of_____ _____, 20_____.

_____
Chairperson

The foregoing map is approved for filing and accepted by the Town of Berthoud, Colorado this _____day of __ _____, 20_____.

ATTEST:_____
Town Planner

B. **Zoning Map Amendment Applications**

LEGAL DESCRIPTION:

KNOW ALL PERSONS BY THESE PRESENTS: That the undersigned, being the owners of _____, located in Section _____, Township_____, Range_____ of the 6th Principal Meridian, Town of Berthoud, County of _____, State of Colorado, more particularly described as follows:

(LEGAL DESCRIPTION)

This is to certify that the rezoning of the above-described property was approved by Ordinance No. _____of the Town of Berthoud, passed and adopted on the_____day of_____, 20____, and that the Mayor of the Town of Berthoud as authorized by said ordinance on behalf of the Town of Berthoud hereby for all acknowledges and adopts the said rezone upon which the certificate is endorsed for all purposes indicated hereon.

Approved by the Board of Trustees of the Town of Berthoud, Colorado this ____day of _____,20____.

_____
Mayor

The foregoing map is approved for filing and accepted by the Town of Berthoud, Colorado this _____day of __ _____, 20___.

ATTEST: _____
Town Clerk

Approved by the Planning Commission of the Town of Berthoud, Colorado this _____day of_____ _____, 20___.

_____
Chairperson

The foregoing map is approved for filing and accepted by the Town of Berthoud, Colorado this _____day of __ _____, 20____.

ATTEST:_____
Town Planner

C. **Neighborhood Master Plan and Use by Special Review Applications**

Approved by the Town of Berthoud, Colorado this ___day of _____ 20___.

_____
Mayor

The foregoing map is approved for filing and accepted by the Town of Berthoud, Colorado this ___ day of _____ _____ 20___.

ATTEST: _____
Town Clerk

Approved by the Planning Commission of the Town of Berthoud, Colorado this ___ day of _____20____.

_____
Chairperson

The foregoing map is approved for filing and accepted by the Town of Berthoud, Colorado this _____day of __ _____, 20____.

ATTEST:_____
Town Planner

D. **Administrative Amended Plat and Site Plan Review Applications**

Approved by the Town Administrator of the Town of Berthoud, Colorado, this ___day of _____20___.

_____
Town Administrator

Approved by the Engineer of the Town of Berthoud, Colorado, this _____day of _____20___.

_____
Town Engineer

The foregoing plat is approved for filing and accepted by the Town of Berthoud, Colorado this ___ day of _____ _____ 20___.

ATTEST: _____
Community Development Director

E. **Development Construction Plans**

Town of Berthoud Engineer Approval Statement

Town of Berthoud Approval

All work shall be constructed to the Town standards and specifications. These plans have been reviewed by the Town of Berthoud for concept only and general conformance with the Town standards and specifications. The review by the Town of Berthoud does not imply responsibility by the Town of Berthoud or the Town Engineer for accuracy and correctness of the plans and calculations.

These Plans are hereby approved for one year from the date of the Town Engineer's approval.
Approved By:

_____

Town Engineer Date

SECTION 6 DESIGN STANDARDS[1]

30-6-101 General provisions

A. **Applicability**. All development shall comply with the standards contained in this Section.

B. **Purpose.** These requirements are established to guide and direct future development to reinforce the existing character of the Berthoud community. The requirements will enable persons wishing to develop or redevelop property to have sufficient direction to enable them to properly plan proposed development or redevelopment rwithin the Town.

C. ***Relationship to zone district standards***. In the event of a conflict between a standard or requirement contained in the Zoning and the Design sections of this Chapter, the Zoning section shall prevail.

D - ***Consistency with the Comprehensive Plan***. Development and redevelopment projects shall be consistent with the vision established in the Comprehensive Plan. The Comprehensive Plan provides guidance to coordinate development and accommodate while maintaining the Town's distinctive character. E - Consistency with Adopted Plans and Guidelines – Development projects shall be consistent with adopted design guidelines, overlay district, and area plans.

1. *Architectural design guidelines.* The Board of Trustees has adopted the "Character District Design Guide Place Types: Town of Berthoud Design Guidelines" ("Architectural Design Guidelines") by resolution. The Architectural Design Guidelines are intended to assist developers, builders, consultants, and the Town of Berthoud in creating basic guidance for the desired built form and may be amended from time to time by resolution of the Board of Trustees.

2. *Landscape Design Guidelines*. The Board of Trustees has adopted the "Landscape Design Guidelines" by resolution. The Landscape Design Guidelines are intended to assist developers, builders, consultants, and the Town of Berthoud in creating basic guidance for the desired landscaping and water conservation principles and may be amended from time to time by resolution of the Board of Trustees.

3. *Mountain Avenue Overlay District.* The Board of Trustees has adopted the "Mountain Avenue Corridor Design and Signage Plan" by resolution. The Corridor Plan is referenced in the Mountain Avenue Overlay District Section of this Chapter and the Guidelines are intended to assist developers, builders, consultants, and the Town of Berthoud in developing and redeveloping property within this District and may be amended from time to time by resolution of the Board of Trustees.

4. *1st Street Corridor Plan*. The Board of Trustees has adopted the "1st Street Corridor Plan" by resolution. The Corridor Plan is referenced in the First Street Overlay District Section of this Chapter and the Guidelines are intended to assist developers, builders, consultants, and the Town of Berthoud in developing and redeveloping property within this District and may be amended from time to time by resolution of the Board of Trustees.

F. ***Site design and compatibility.*** - All development and redevelopment shall be designed, engineered, and planned to:

1. Ensure compatibility with adjacent existing land uses and neighborhoods;
2. Provide interconnectivity throughout the community; and

3. Improve the overall visual quality of the Town.

Streets, trails, sidewalks, parks, and open spaces shall be interconnected between neighborhoods. Neighborhoods shall be distinctly identifiable through signage, unifying design themes, and required neighborhood identity features.

~~All development and redevelopment shall be designed, engineered and planned to be compatible with adjacent existing land uses and neighborhoods, interconnected throughout the community, and improve the visual quality of the Town. Streets, trails, sidewalks, parks, and open spaces shall be connected between neighborhoods. Neighborhoods shall be distinctly identifiable through signage, and unifying themes and elements, including required neighborhood identity features.~~

G. ***Preservation of Historic Character***.The preservation of historical structures and property features, and the integration of such elements into future development or redevelopment, is encouraged. Preserved elements shall be incorporated in a manner that reflects the historical character of the property and reinforces the Town's sense of place. ~~The preservation of historical structures and features of a property and the integration of these elements into the future development or redevelopment of a property is encouraged. These elements celebrate the history of the Town, the character of a property and evoke a sense of place.~~

H***. Density Transitions*** - Where proposed residential development includes densities that differ from those of adjacent existing residential neighborhoods, the applicant shall:

1. Provide a physical buffer between developments; and
2. Incorporate a gradual transition from higher density to lower density.

The responsibility for providing and demonstrating compatibility rests with the developer of the higher-density neighborhood. Compatibility shall be established through measures including, but not limited to, landscaping, buffer depth, berming, and the reduction of density at the perimeter of the development.

~~Proposed residential developments with densities different from densities in adjacent existing residential neighborhoods shall include a buffer between the two developments and a gradual transition from higher density to lower density. It shall be the responsibility of the developer of the more dense neighborhood to ensure that the transition from density to the other minimizes perceived conflicts between the existing and proposed densities. It is the responsibility of the higher density neighborhood to demonstrate that the proposed density will be compatible through the effective use of landscaping, buffer depth, berms, and a gradual decrease of density at the edges of the neighborhood, for example.~~

I. ***Agricultural heritage -*** The historic agricultural heritage is important to the Town of Berthoud. The Right to Farm Policy adopted by the Town shall be adhered to.

30-6-102 Design standards and construction specifications

Pursuant to parts 1 and 2 of article 16 of title 31, C.R.S., there is hereby adopted by reference Engineering and Infrastructure Design Standards and Construction Specifications, 2020 Edition as published by the Town of Berthoud, 807 Mountain Avenue, Berthoud, Colorado 80513 ("Standards and Specifications"); provided that any penalty provisions are expressly not adopted. These Standards and Specifications may be amended in whole or in part. The subject matter of the Standards and Specifications relates primarily to the design and construction of public and private improvements. The purpose of this Section and the Standards and Specifications adopted herein is to provide minimum standards for safety, health, and general welfare of the Town by regulating the design, construction, choice of materials, location, maintenance and use of all Public and Private Improvements. Three copies of the Standards and Specifications adopted herein are now filed in the office of the Clerk of the Town of Berthoud, Colorado, and may be inspected during regular business hours.

(Ord. No. 1296 , § 1, 11-9-2021)

30-6-104 Application of design standards

Town staff in its discretion, with final approval by the Town Administrator, and the Planning Commission will evaluate each proposal based on these standards and the context within which each project is located. The standards are intended to be specific enough to guide development but not so specific as to preclude creative design solutions. Applicants must conform to the design standards in this Section unless it can be demonstrated that an acceptable alternative meets one or more of the following conditions:

1. The alternative better achieves the stated intent;
2. The intent cannot be achieved by application of the standard in the specific circumstance;
3. The effect of other standards will be improved by not applying a particular standard;
4. Strict application or unique site features make the standard impractical:
5. An innovative or creative proposal better meets the goals of the Berthoud community.

In the event of any conflict between these standards and any more restrictive zoning, subdivision, or other Development Code requirement, the more restrictive regulation shall apply unless specific variance(s) are granted by the Town.

~~3~~0-6-105 Lots and blocks

A. *Intent*. The intent of the block and lot standards is to continue the Town's existing block pattern in a manner that is compatible with site-specific environmental conditions.

B. *General provisions*.

1. *Blocks*. Streets shall be designed to create blocks that consider interconnectedness, topography, solar orientation, views, energy efficiency, and other design features. Block size shall be designed to create blocks that are generally a rectilinear or modified rectilinear shape. Amorphously shaped blocks are discouraged except where topography or other conditions necessitate that type of configuration.
2. *Lot dimension and configuration*.
   a. Blocks shall be set within a street layout that includes a maximum average length of 400 feet from street centerline to street centerline.
   b. Lot size, width, depth, shape, and orientation and building setback lines or build-to lines shall conform to this Chapter 30 and shall facilitate the placement of buildings with sufficient access, outdoor space, privacy and view.
   c. Depth and width of properties shall be adequate to provide for off-street parking, landscaping, and loading areas required by the type of use and development contemplated.
   d. Lot frontage. Street frontage shall typically not be less than 25 percent of the lot depth. Flag lots are prohibited unless otherwise approved ~~by the Town per Section 30-2-103~~ as outlined in the Application of Design Standards Section of this Chapter..
   e. Corner lots. Corner lots for residential use shall have extra width to accommodate the required building setback and utility easements on both street frontages. For a corner lot, the front of the lot is defined as the side where the property is addressed. In the case of a reverse corner lot, both sides abutting a street shall maintain a front yard setback.

f. Double frontage. Residential lots that front on two streets (double frontage) shall not be permitted unless otherwise approved by the Town as outlined in the Application of Design Standards Section of this Chapter. ~~per Section 30-2-103.~~

g. Side lot lines. Side lot lines shall be substantially at right angles or radial to road right-of-way lines or centerlines.

h. Residential lot access to adjacent or nearest public street.

i. All lots shall have access to the public street system.

ii. Driveway access to a local or collector street from a single-family detached residential lot shall be limited to one driveway curb-cut or driveway access. A circular drive in which each access to the local or collector street is less than ten feet in width, separated by at least 30 feet and which is constructed as an integral part of the overall architectural design of the single family residence may be considered as a single driveway access.

iii. The slope of all driveways shall be no more than ten degrees.

30-6-106 Streets and alleys

Intent. The intent of the street standards is to establish a safe, efficient, attractive transportation system that promotes all modes of transportation and is sensitive to the environment.

General provisions. The local street system of any proposed development shall be designed to be safe, efficient, convenient and attractive. The local street system shall consider vehicular, bicycle, pedestrian, and transit elements in the design of the system. Streets shall be developed as an inviting public space and are an integral part of the overall community design in Berthoud.

A. *Complete streets.* To encourage all forms of transportation in Berthoud, and to lessen the reliance on automobile traffic, all new or redeveloped streets shall be developed as Complete Streets. Complete Streets include accommodations for each mode of travel recognizing that all streets are different and that the needs of various users will need to be balanced in a flexible manner. The standards as adopted within Larimer County Urban Area Street Standards (LCUASS), shall support the accommodation of all travel modes. Implementation may be flexible to respond to the context and character of corridors, with the ultimate intent of safely accommodating all modes.

B. *Tree-lined streets.* All streets shall include street trees on both sides of the street with the exception of rural roads and alleys. Allowances may be made in commercial, mixed use and industrial districts to group trees or reduce the number of trees as appropriate in order to allow view corridors that are framed by street trees into those types of developments.

C. *Street layout.* The street layout shall form an interconnected system of streets where feasible, primarily in a grid or modified pattern adapted to the topography, unique natural features, environmental constraints and open space areas. The street layout shall emphasize the location of neighborhood focus points, other internal open space areas, gateways, and vistas.

1. The use of cul-de-sacs and other roadways with a single point of access shall be minimized. The integration of traffic calming features within and adjacent to residential areas shall be utilized when appropriate. Ten-foot tree lawns are required on arterial and collector streets.
2. Street stubs shall be required in instances a proposed development is adjacent to an undeveloped property.
3. Streets in new developments shall be designed to connect to the adjoining street network and/or adjoining street stubs.
4. Internal access easements shall be required on all commercial and industrial developments, unless waived by the Town Engineer.

D. *Controlling street access.* A strip of land between a dedicated street and adjacent property shall not be reserved for the purpose of controlling access to such street from such property.

E. *Visibility at intersections.* No shrubs, ground cover, berms, fences, structures, or other materials or items between 24 inches and eight feet in height at maturity shall be planted, created or maintained at street intersections within the site distance triangle. Trees shall not be planted within the site distance triangle and the linear street distance included within a sight triangle shall not be part of the calculation for the total number of street trees needed in that project.

F. *Pedestrian crossings at street intersections and mid-block.* Pedestrian crossings shall be accessible to handicapped individuals and mid-block crossings may be required at the direction of the Town.

G. *Access.* Access to all subdivisions shall be from a public street system and driveways shall not access Colorado Highway 56 except as identified in the State Highway 56 Corridor Access Control Plan as amended.

H. *Street right-of-way dedication.* The full width of right-of-way for all streets being platted must be conveyed to the Town after final acceptance unless otherwise approved by the Town.

I. *Perimeter and dead-end streets.* When a street is dedicated which ends on the plat, the street right-of-way must be dedicated to the boundary of the plat. Dead end streets are prohibited except in unique situations and then only with approval of the Town.

J. *Street names.* Names of new streets shall not duplicate names of existing streets in Berthoud. However, new streets which are extensions of, or which are in alignment with, existing streets within the Town shall bear the names of such streets. Street naming and property address numbering will be coordinated between the applicant, Town of Berthoud and Larimer or Weld County as appropriate.

K. *General design standards.* Design of streets, curbs and gutters shall be in accordance with the Larimer County Urban Area Street Standards (LCUASS) (Loveland only) as amended, and with the Americans with Disabilities Act (ADA) standards.

The layout of arterial and collector streets shall be per the Town's Master Street Plan unless otherwise approved by the Board.

Utility pedestal locations shall be minimized in tree lawns and yards that abut streets.

30-6-107 Parking

A. *Intent*. The intent of this section is to provide adequate parking for motor vehicles while minimizing the visual impact of parking lots and structures.

B. *General provisions*. In all mixed use, commercial or industrial zone districts, off-street parking facilities for the storage of motor vehicles for the use of occupants, employees and patrons of the building or structures hereafter erected, altered or extended shall be provided and maintained as herein prescribed.

1. *Surface*. All parking and driveway areas and primary access to parking facilities shall be surfaced with asphalt, concrete or similar materials.

2. *Integrate parking lots with surroundings*. Parking lots shall not dominate the frontage of pedestrian-oriented streets, interfere with designated pedestrian or bicycle routes, or negatively impact surrounding neighborhoods. The pedestrian character of streets and buildings shall be maximized through continuity of buildings and landscape frontage.

3. *Landscaping*. Parking lots shall be landscaped, screened and buffered as provided in this Section.

4. *Shared-access*. Where feasible, parking lots shall share access drives and cross-access easements with adjacent properties having similar land uses.

5. *Off-street parking design*. Any off-street parking area shall be designed so that vehicles will exit without backing onto a public street unless no other practical alternative is available. Off-street parking areas shall be designed so that parked vehicles do not encroach upon or extend onto public rights-of-way, sidewalks or strike against or damage any wall, vegetation, utility or other structure.

6. *Circulation area design*. Circulation lanes within parking lots shall support the safe movement of vehicles without endangering pedestrians or impeding use of the parking area.

7. *Striping*. All parking lots shall be striped to identify individual parking spaces.

8. *Lighting*. All parking area lighting shall be full cutoff type fixtures. Any light used to illuminate parking areas or for any other purpose shall be so designed as to direct the light away from nearby residential properties and passing motorists.

9. *Shared off-street parking*. When there are opportunities to support parking demand through shared off-street parking for compatible uses (such as a movie theater and an office building), a parking study and shared parking agreements may be used to demonstrate the adequacy of the parking supply as a substitute for standard parking requirements. Reductions of between ten percent and 30 percent of the parking amounts called for in the Required Parking Table are possible.

10. *Adjacent on-street parking in commercial and mixed use districts*. In order to promote a pedestrian scale and encourage a perception of safety in the commercial and mixed use zoning districts, parking may be satisfied using adjacent on-street parking or shared rear-lot parking areas. A parking study and shared parking agreements shall be used to demonstrate the adequacy of the parking supply as a substitute for standard parking requirements.

C. *Paved off-street parking requirements*.

1. Paved off-street parking shall be provided according to the minimum requirements as specified below:

Required Parking Table

	R1, R-2 zones, RR, SR	R3, R5 zones	R4, UR* zone	C1[2], C2, SC, UC zones	M1, M2 zones
Residential. ((Alley loaded homes in R3, R4, and UR with less than 1,250 sq ft of total floor area (including unfinished) are only required 1 parking space per dwelling unit.)	2.0 per dwelling — 2.0 per unit in R3~~[1]~~	1.5 per dwelling unit	1.5 per dwelling~~[1 2]~~. For residential units without direct street frontage, an extra 0.20 spaces of off-street visitor parking per unit will be required within the overall development. Driveway spaces located directly behind garages or parking pads will not be counted towards this requirement.	1.0 per dwelling	—
Lodging	1.0 per bedroom	—	1.0 per bedroom	1.0 per bedroom	1.0 per bedroom
Office	3.0/1,000 sq. ft.	—	3.0/1,000 sq. ft.	3.0/1,000 sq. ft.	2.0/1,000 sq. ft.
Retail	—	—	3.0/1,000 sq. ft.~~[3]~~	3.0/1,000 sq. ft.~~[3]~~	3.0/1,000 sq. ft.~~[3]~~
Restaurant: sit down	—	—	1 per 4 seats or 1 per 100 s.f. of gross floor area	1 per 4 seats or 1 per 100 s.f. of gross floor area	1 per 4 seats or 1 per 100 s.f. of gross floor area
Restaurant: drive through. For food/drink establishments, a minimum of 12 stacking spaces will be required in the drive-thru. For all other drive-thru uses, a minimum of 7 stacking spaces will be required.	—	—	1 per 100 sq. ft., plus 3 stacking spaces for drive thru window	1 per 100 sq. ft.~~[3]~~	1 per 100 sq. ft.~~[3]~~
Industrial	—	—	—	1.0 space per 1,000 s.f. gross floor area	1.0 space per 1,000 s.f. gross floor area
Civic	To be determined on project basis				
Other	To be determined on project basis				
~~Footnotes~~					
~~1~~	~~Alley loaded homes with less than 1,250 sq ft of total floor area (including unfinished) are only required 1 parking space per dwelling unit.~~				

2

2	~~For residential units without direct street frontage, an extra 0.20 spaces of off-street visitor parking per unit will be required within the overall development. Driveway spaces located directly behind garages or parking pads will not be counted towards this requirement.~~
~~3~~	~~STACKING: For food/drink establishments, a minimum of 12 stacking spaces will be required in the drive-thru.~~ ~~For all other drive-thru uses, a minimum of 7 stacking spaces will be required.~~
~~* 4~~	~~At least one Electric vehicle charging spaces are is required to be installed with new construction development or redevelopment . These spaces count towards the total space requirement~~
~~** 5~~	~~Maximum parking: For non-residential uses, the larger of either 10 spaces greater than the minimum required or 25% greater than the minimum required~~
	~~*All parking spaces served by an EV Charging Station and/or any parking space used to site EV Charging Equipment shall count as one standard space toward the total parking requirements. All van-accessible parking spaces designed to accommodate a person in a wheelchair and used as an EV Charging Station and are not reserved only for use by persons with a disability, shall count as two standard spaces towards the total parking requirements.*~~

2. At least one Electric vehicle charging space is required to be installed with new development or redevelopment . These spaces count towards the total space requirement

3. All parking spaces served by an EV Charging Station and/or any parking space used to site EV Charging Equipment shall count as one standard space toward the total parking requirements. All van-accessible parking spaces designed to accommodate a person in a wheelchair and used as an EV Charging Station

4. For non-residential uses, the larger of either 10 spaces greater than the minimum required or 25% greater than the minimum required

5. *All parking spaces served by an EV Charging Station and/or any parking space used to site EV Charging Equipment shall count as one standard space toward the total parking requirements. All van-accessible parking spaces designed to accommodate a person in a wheelchair and used as an EV Charging Station and are not reserved only for use by persons with a disability, shall count as two standard spaces towards the total parking requirements.*

6. Off-street parking for commercial uses shall be sufficient to provide parking for employees of all proposed uses as well as long-term customer parking. Spaces reserved for employees shall be designated as such by means of striping and signage. Parking shall be located at the rear and sides of buildings to the greatest extent possible and screened from the view of streets as provided in this Section. Required parking in the commercial and mixed use zone districts can be met with on-street and shared parking.

   a.~~3.~~ The location of required off-street parking facilities for other than residential uses shall be within 400 feet of the building they are intended to serve when measured from the nearest point of the building or structure.

7.~~4.~~ Commercial uses either renovating or expanding existing properties fronting on Massachusetts Ave. between 3rd and 5th Streets, Mountain Ave. between 1st and 5th Streets or Welch Avenue between 1st and 5th Streets are exempt from the parking requirements of this Section.

8.~~5~~. Large retail centers are subject to the below minimum parking standards:

   a. Centers with 75,000-150,000 sq. ft: 1 space per 350 sq.ft.

   c. Centers with more than 150,000 sq. ft: 1 space per 400 sq.ft.

D. *Location of spaces for residential uses*.

1. Off-street parking facilities for residential uses shall be provided and located on the same lot as the building they are intended to serve.

2. Front or side — loading garages shall be set back at least 22 feet from the back of the sidewalk or property line, whichever is more restrictive. Required off-street parking spaces shall not encroach upon any sidewalk or into the public right-of-way.

E. For handicap parking spaces, the developer shall provide parking in accordance with the Americans with Disabilities Act.

1. When EV Charging Stations are provided on the subject lot, the same proportion of handicap parking spaces shall be provided as noted in Table 2.3, per the total number of parking spaces served by an EV Charging Station. For example, if between 1 and 25 parking spaces are served by an EV Charging Station, at least one of those spaces must be handicapped. Handicap spaces served by EV Charging Stations may or may not be reserved for use only by persons with a disability. All other provisions in this section related to the design of handicap parking spaces apply.

1. When EV Charging Stations are provided on the subject lot, the same proportion of handicap parking spaces shall be provided as noted in Table 2.3, per the total number of parking spaces served by an EV Charging Station. For example, if between 1 and 25 parking spaces are served by an EV Charging Station, at least one of those spaces must be handicapped. Handicap spaces served by EV Charging Stations may or may not be reserved for use only by persons with a disability. All other provisions in this section related to the design of handicap parking spaces apply.

F. *Handicap parking space dimensions*

1. Parking spaces must be eight feet by 18 feet with a five-foot wide access aisle.
2. Van-accessible spaces must be eight feet by 18 feet with an eight-foot wide access aisle.
3. Parking spaces for the physically handicapped that are parallel to a pedestrian walk which is handicap accessible may have the same dimensions as those for standard vehicles.

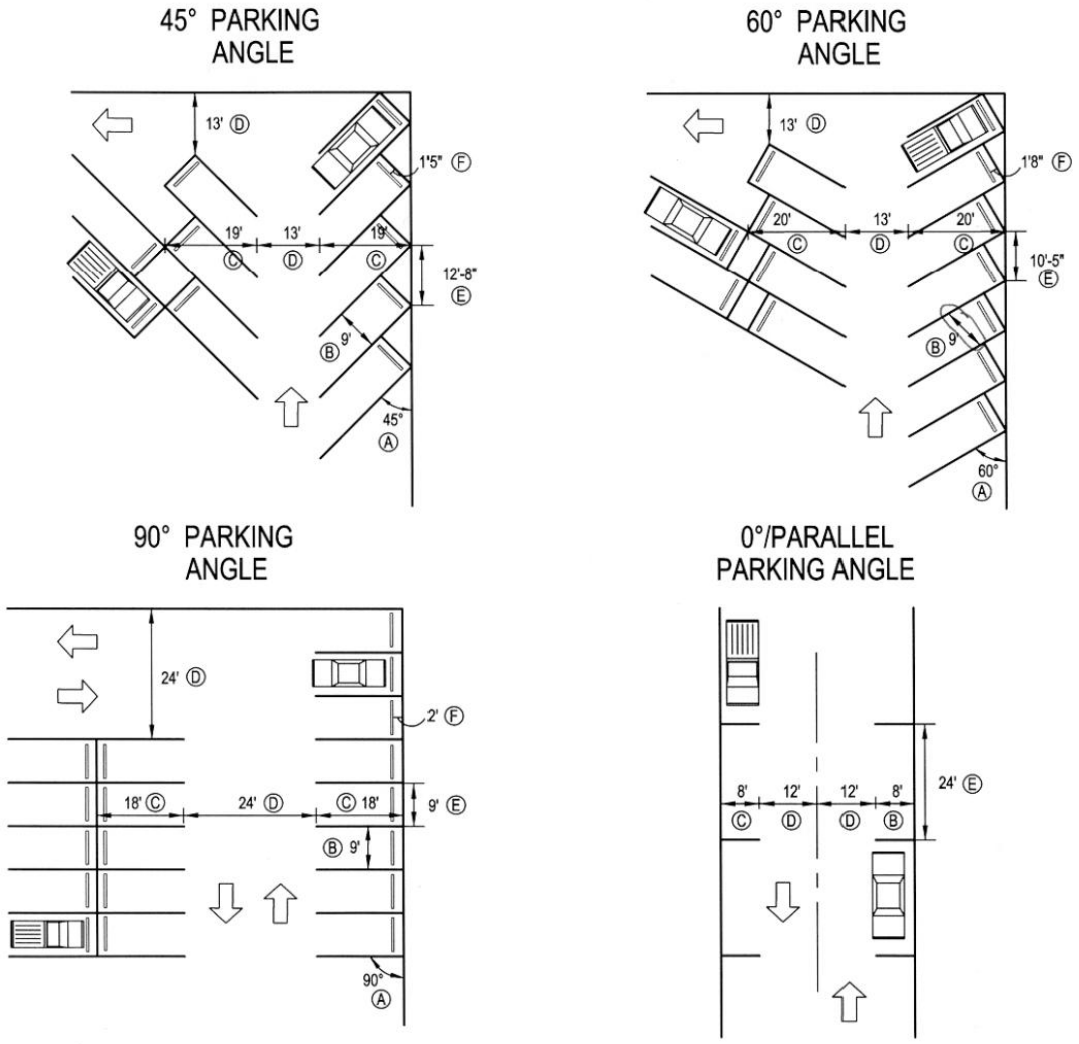
G. *Parking stall dimensions*. Parking stalls for automobiles shall meet the following standards. All dimensions represent the minimum requirement for any required parking space.

Table 2.4: Parking stall dimensions

Parking Stall Dimensions					
Parking Angle (A)	Stall Width (B)	Stall to Curb (C)	Aisle Width (D)	Curb Length (E)	Over-hang (F)
45°	9'	19'	13'	12' 8"	1' 5"
60°	9'	20'	13'	10' 5"	1' 8"
90°	9'	18'	24'	9'	2'
0°(parallel)	8' , Except along local streets where seven feet is permitted. *	8'*, Except along local streets where seven feet is permitted.	12'	24'	0'

~~* Except along local streets where seven feet is permitted.~~

Figure 2.10: Parking area dimensions



H. *Bicycle parking spaces*. Commercial, industrial, civic, employment, multi-family and recreational uses shall provide bicycle facilities to meet the following standards:

1. A minimum number of bicycle parking spaces shall be provided, equal in number to ten percent of the total number of automobile parking spaces provided by the development, but not less than one space. Multi-family or mixed-use developments will be required to have at least 50 percent of their bicycle parking spaces be enclosed.
2. For convenience and security, bicycle parking facilities shall be located near building entrances. Within downtown commercial areas, however, a grouping of spaces shall be provided as directed by the Town.
3. Bicycle parking facilities shall be designed to allow the bicycle frame and both wheels to be securely locked to a structure which is permanently attached to the pavement.
4. Bicycle parking facilities shall be located so as not to interfere with pedestrian traffic or access to buildings.

I. EV Charging

1. Parking spaces served by EV Charging Stations and/or Electric Vehicle Supply Equipment (EVSE) are required per the Town's Building Regulations - National Electrical Code, 2023 Edition or may also be developed voluntarily, per the use allowances in the Zoning Section of this Code and associated application review processes in this Code and definitions for Principal Use and Accessory Use EV Charging in Section 30-1-121. Principal Use EV Charging may be accompanied by other supportive uses, such as convenience retail, public restrooms, etc. All proposed EV Charging Stations that do not meet these definitions are allowed by-right and are not subject to land use permitting but do require applicable building and electrical permits.
2. When Accessory Use EV Charging is proposed on a subject lot within an existing designated parking area where no changes to the existing Principal Use(s) are proposed, the existing Principal Use(s) shall be exempt from any site improvements or other requirements to conform with applicable land use regulations as conditions of approval for the Accessory Use EV Charging permit.
3. Appropriate safety and access distances shall be provided for all EV Supportive Equipment (EVSE), per the National Fire Protection Association (NFPA) standards and the National Electric Safety Code (NESC), providing space free of obstruction between the equipment and any adjacent structure or landscaping.
4. Accessory Use EV Charging is subject to the standards found in the Design Section of this Chapter as well as the procedures found in the Subdivision and Land Use Section of this Chapter.

30-62-1087 Sidewalks, walkways, trails, and bikeways

A. *Intent*. The intent of the standards for sidewalks, walkways and trails is to assure a safe, convenient, and attractive pedestrian/bicycle system that minimizes conflicts between vehicles, bicycles and pedestrians. For detailed cross-sections, refer to the latest Specifications and Standards engineering document. Adherence to the Town's master plan and regional master plans shall be made.

B. *Sidewalks and walkways*.

1. *Interconnected network*. A sidewalk network that interconnects all dwelling units with other dwelling units, non-residential uses, and common open space shall be provided throughout each development. Sidewalks and/or walkways shall be separate and distinct from motor vehicle circulation routes. The pedestrian circulation system shall include gathering/sitting areas and provide benches, landscaping and other street furniture where appropriate.

2. *Sidewalks required*. In all zone districts, except for the AG: Agricultural or T: Transition districts, sidewalks are required along both sides of a street. In areas featuring a rural street cross-section, trails may replace sidewalks.

3. *Sidewalk width*. Sidewalks shall be a minimum of five feet wide when adjacent to local streets; a minimum of five feet wide along collector streets; and a minimum of eight feet wide along arterial streets. If a detached sidewalk is installed it must be at least four feet in width. Sidewalks adjacent to storefronts in commercial areas shall be ten to 15 feet in width or consistent with the average sidewalk width on a block if building in an area with existing sidewalks.

4. *Sidewalk location*. Sidewalks shall be located within the right-of-way unless otherwise authorized by the Town.

5. *Sidewalk materials*. Sidewalks shall be constructed of concrete, concrete containing accents of brick, or some combination thereof that is compatible with the style, materials, colors, and details of the

surrounding buildings. Concrete sidewalks four to six feet wide shall be a minimum of four inches thick and concrete sidewalks crossing driveways shall be a minimum of six inches thick. Asphalt shall not be used for sidewalks.

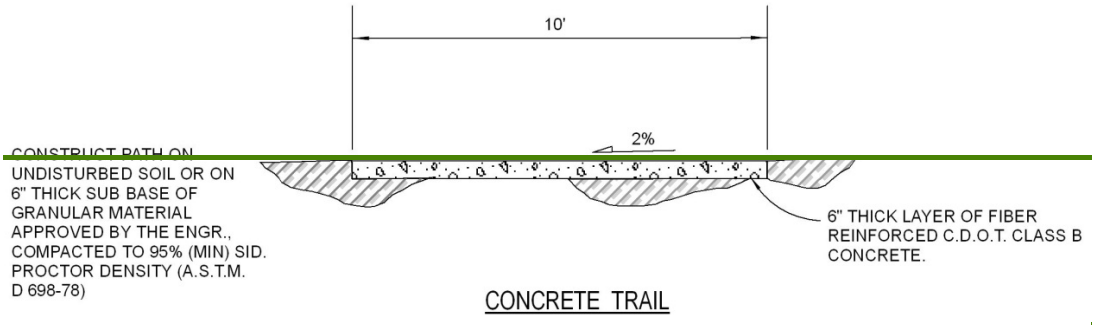
Sidewalks must be constructed of approved materials of sufficient strength to support light maintenance vehicles. If used as a secondary emergency access, sidewalks must also be able to support the weight of fire apparatus.

6. *Sidewalk installation*. Sidewalks and related improvements shall be installed or constructed by the applicant, land owner or developer in accordance with plans and specifications approved by the Town and, after installation or construction; they shall be subject to inspection, approval and acceptance by the Town.

7. *Accessibility*. Sidewalks and walkways shall be accessible to disabled individuals as required by this Code and the Americans with Disabilities Act.

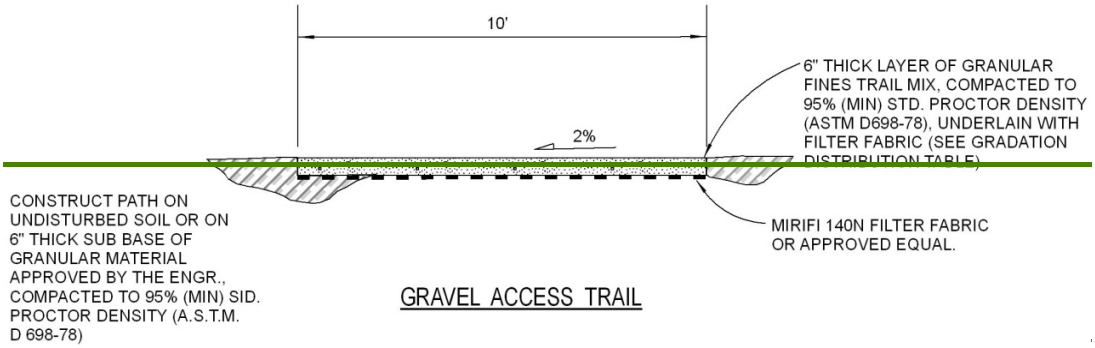
8. *Walkways*. Walkways are sidewalks within a park setting or connections through any subdivision that allow easier access between areas. Within a park setting a walkway shall be at least six feet in width. When cutting through a subdivision a walkway shall be at least six feet in width and located within dedicated open space of not less than 20 feet in width and shall be flanked with appropriate landscaping. Walkways along buildings and within parking lots shall be raised and curbed where suitable. A direct pedestrian connection to building entries, public space and parking areas shall be provided from public sidewalks. Walkways shall be constructed of the same materials as sidewalks; except that walkways internal to asphalt surfaced parking lots may be of asphalt construction. Walkways crossing driveways in parking lots shall be clearly delineated by a change in pavement color, texture, or paint striping.

9. *Lighting*. Where lighting is necessary, all sidewalks and other walkways shall have appropriate Dark Sky compliant lighting using poles and fixtures consistent with the overall design theme for the development.

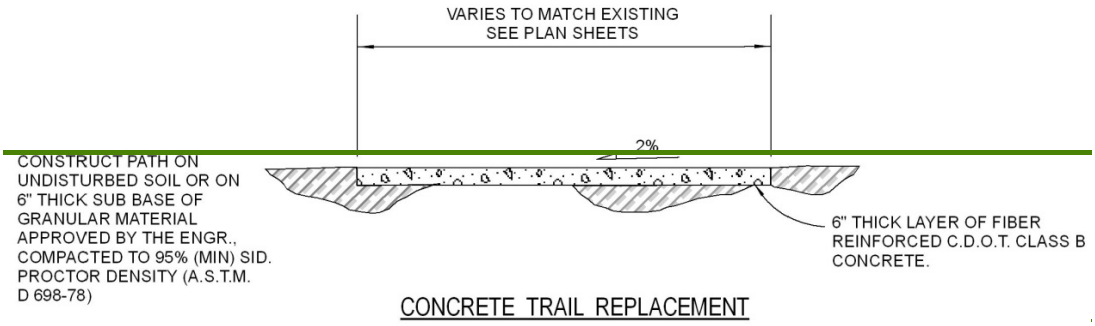


CONCRETE TRAIL

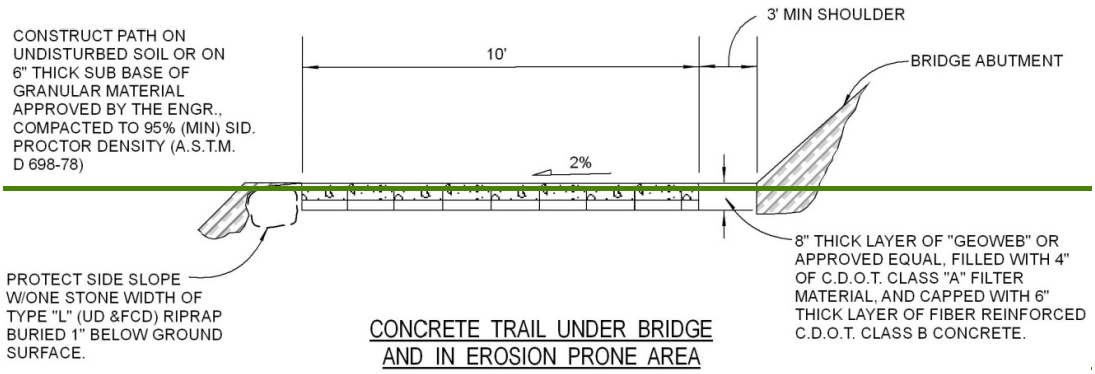
~~**Figure 2.12: Gravel trail**~~



~~**Figure 2.13: Trail replacement**~~



~~**Figure 2.14: Trail at underpass or bridge**~~



~~(Ord. No. 1299 , § 1(Exh. A), 12-14-2021)~~

30-6-109 Easement and utility standards

A. *Multiple installations within easements.* Easements shall be designed so as to provide efficient installation of utilities. Public utility installations shall be located as to permit multiple installations within the easements. The developer will establish final utility grades prior to utility installations.

B. *Underground utilities.* Telephone lines, electric lines, cable television lines and other like utility services shall be placed underground. The applicant or developer shall be responsible for complying with the requirements of this Section, and shall make the necessary arrangements including any construction or installation charges with each utility provider for the installation of such underground facilities. Transformers, switching boxes, meter cabinets, pedestals, ducts and other facilities necessarily appurtenant to such underground utilities shall be placed underground or on the surface but not on utility poles. Screening or fencing is required subject to approval of the Town. Electric transmission and distribution feeder lines and necessary appurtenances thereto may not be placed above ground unless they are carrying greater than 115 kV. Upon approval of the Town, such facilities shall be placed within easements or rights-of-way provided for particular facilities.

C. *Street lighting.* Street lighting shall be full cut-off and installed as provided in Section 30-2-118 of this Code and as specified in the Town of Berthoud Construction Specifications for Public Improvements. Lighting will be in compliance with Berthoud's Dark Sky standards. Minimum lighting requirements and spacing of light fixtures is per the applicable electric utility.

(Ord. No. 1299 , § 1(Exh. A), 12-14-2021)

30-6-110 Parks, trails and open space

A. *Intent.* To ensure that a comprehensive, integrated network of parks and open space is developed and preserved consistent with any adopted plans regarding parks, trails and open spaces ~~Parks, Open Space and Recreation (PORT) Plan~~ as the Berthoud community grows. Parks, trails and open spaces on adjacent properties shall connect.

B. *Park standards and requirements.*

1. *Intent.* The Town of Berthoud reaffirms its belief that high quality useable parks and open spaces contribute to the overall life for Berthoud residents. The Town prioritizes diversity of park amenities throughout the community as development occurs.

2. *Park development requirements.*

a. Developed parks shall be required for a residential subdivision if the subdivision totals more than six acres or has more than 50 dwelling units. The amount of developed park required shall be calculated at a ratio of one acre of parkland per 100 dwelling units, and must satisfy the requirements of the Parks Standards and Requirements Section.

b. Park areas shall be surrounded by public right-of-way not by private lots, to the greatest extent feasible.

3. *Park types and requirements.*

a. *Pocket park.* A pocket park is a small outdoor recreational space intended to serve the immediate neighborhood. Pocket parks shall be a minimum of one-third acre in size and less than two acres. These spaces shall ~~It should~~ be accessible by walking and biking and ~~should be~~ located within a one-quarter mile radius of the intended users. These spaces ~~Pocket parks~~ do not typically require off-street parking. Pocket parks shall be owned and maintained by an HOA or Metro District and shall remain open to the public. No credit for Park Development impact fees shall be granted by the Town for the construction of pocket parks.

b. *Neighborhood park.* Neighborhood parks are the basic unit of the park system and serve as the recreational and social focus for the neighborhood. A neighborhood park shall be a minimum of two acres in size and less than five acres. Neighborhood parks are generally intended to serve a resident population living within a one-mile radius of the neighborhood park. Neighborhood

parks should have high visibility to surrounding streets for public safety. Depending upon available on-street parking, neighborhood parks may require off-street parking spaces of seven off-street parking spaces, at least one of which shall be ADA accessible. Depending upon the types of amenities included, and at the discretion of the Town, neighborhood parks may be owned and maintained by an HOA or Metro District or may be dedicated to the Town upon completion of construction and acceptance by the Town. In all instances, neighborhood parks shall remain open to the public. Credit for park development impact fees may be granted by the Town up to 25 percent of the impact fee if the Town accepts dedication of the park, but in no case shall credit total more than the cost to construct the park.

c. *Community park.* Community parks are large recreation facilities serving a population within a several miles radius. A community park shall be a minimum of five-acres and less than 20-acres. Community parks are intended to provide recreational opportunities of community interest such as sport fields, courts, or other unique recreation amenities. Locations of community parks must be approved by the Town. Due to their size, community parks may not have high visibility to surrounding streets and should be designed with public safety in mind. This may be accomplished with access control, video surveillance, enhanced lighting, or other creative design ideas to increase public safety. Off-street parking is required for all community parks and requirements will be established by the Town based upon the amenities provided. All community parks shall be designed in accordance with all applicable Town standards and dedicated to the Town upon completion of construction and acceptance by the Town. Credit for park development impact fees shall be granted by the Town up to 100 percent of the impact fee, totaling no more than the cost to construct the park.

d. *Regional park.* Regional parks are intended to serve the entire Town and surrounding communities. They are not typically constructed by developers but in rare instances may be included as part of a large master planned community. Regional parks are greater than 20-acres in size and must be planned, approved, and accepted by the Town.

4. *Park development required elements.* All proposed parks must have the following elements:

Required infrastructure (all parks)	• Electricity • Irrigation • Trash receptacles (min. two per acre) • Dog waste stations (min. Two per acre) • Water service • Bike racks • Landscaping • Public art • Sign with park name and address

Pocket parks (1/3-2 acres) must include	All required infrastructure items, and at least 3 of the following elements: Group picnic shelter (min 500 sf with three tables) Two individual shelters with one picnic table each 15,000 sf minimum turf play area (one element per 15,000 sf) 10,000 sf minimum natural area (one element per 10,000 sf) Concrete loop walk (minimum length 2000 linear feet, minimum width 6') And at least 3 of the following pocket park elements (each item is counted as one element and additional instances shall not be counted as additional elements): • Spray pad or splash area • Racquet sports court (tennis, handball, pickleball, etc.) • Water feature (A passive water-based amenity that provides a visual focal point such as fountains, ponds, or waterfalls) • Trail head with a minimum of four parking spaces • Interactive Public Art • Permanent picnic tables with Chess/Checkers Board[1] • Lawn games area (shuffleboard, bocce ball, horseshoe pits, etc.)[1] • Fitness course • Interpretive/educational signage, with guidance and approval from Town on content • Commercial-grade playground or nature-inspired/nature-based playground • Sensory play area • Rain garden • Demonstration garden • Free book exchange box • BBQ grills and picnic tables (min. one per every two tables) • Benches (min. two per half-acre) • Drinking fountains • Additional trees planted at a ratio of 20 trees/acre (counted as one element) • Other components chosen by the applicant and approved by the Town
Neighborhood parks (2-5 acres) must include	All required infrastructure items and 6 total pocket park elements, and 3 of the following neighborhood park elements: • Community garden with management plan • Sports facility (one full basketball court, volleyball court, soccer field, etc.) • Fully fenced off-leash dog area (minimum size one acre) • Practice backstop (with turf size adequate for min. 200 ft. foul lines. May be on required turf area) • Restrooms with plumbing (counts as three items) • Incorporation of historic elements (architectural salvage, structures, materials, etc.) • Rock wall/rock climbing structure • Shade structures • EV charging station
Community parks (5-20 acres) must include;	All required infrastructure items, a permanent restroom building, satisfaction of pocket park and neighborhood park requirements, and an additional 3 elements from the pocket park elements, neighborhood park elements, and/or below: • BMX or mountain bike skills course • Disc golf course (at least 6 holes) • Boating facilities • Fishing facilities • Outdoor pool

	• Skate park • Community building • Other components chosen by the applicant and approved by the Town
Regional parks (20 acres or greater) must include;	All required infrastructure items, a permanent restroom building, the following elements: • Three group picnic shelters (min 500 sf with three tables) • Five individual shelters with one picnic table each • 15,000 sf minimum turf play area ~~(one element per 15,000 sf)~~ • Natural area to include waterwise native plant species • Concrete loop walk (minimum 6' wide) And at least 10 of the following elements (each item is counted as one element and additional instances shall not be counted as additional elements):: • Sports facility (one full basketball court, volleyball court, soccer field, etc.) • Spray pad or splash area • Racquet sports court (tennis, handball, pickleball, etc.) • Disc golf course (9 or 18 holes) • Off-leash dog area - fenced (min size - one acre with separated fenced areas for different uses and dog sizes) • Practice backstop (with turf size adequate for min. 200 ft. foul lines, May be on required turf area) • Water feature (A passive water-based amenity that provides a visual focal point such as fountains, ponds, or waterfalls) • Trail head with a minimum of ten parking spaces, including at least one EV charging space • Interactive Public Art • Interpretive/educational signage, with guidance and approval from Town on content • Lawn games area (shuffleboard, bocce ball, horseshoe pits, etc.)[1] • Fitness course • Permanent picnic tables with Chess/Checkers Board[1] • Commercial-Grade Playground or nature-inspired/nature-based playground • Community garden with management plan • Sensory play area • Rain garden and creative drainage paths • Demonstration garden • Free book exchange box • BMX or mountain bike skills course • Boating facilities • Fishing facilities • Outdoor pool • Skate park • Community building • Incorporation of historic elements (architectural salvage, structures, materials, etc.) • Rock wall/rock climbing structure • Shade structures • BBQ grills and picnic tables (min. one per every two tables) • Benches (min. two per half-acre) • Drinking fountains (min. one per every four acres) • EV charging station • Other components chosen by the applicant and approved by the Town
`[1]	The necessary equipment for these features must be provided and made available to the public.

C. *General provisions for Parks and Open Spaces.*

1. *Public access.* Areas designated as public open space shall be both visibly and physically accessible to the community. Adequate public access shall be provided to all public open space, natural and developed, directly from the public street and trail system. Pocket parks and plazas shall be integrated into the neighborhood design and be accessible to pedestrians and bicyclists.

~~2. *Buffering* Buffering and setbacks shall be used between environmentally sensitive areas (including but not limited to shorelines, wetlands, river and riparian corridors) and proposed development to ensure that the proposed development does not degrade the existing habitat. Developers shall provide an open space buffer zone of at least 150 feet around all natural areas, natural preserved open lands, and/or environmentally sensitive open lands, as defined in the definitions section of this Chapter, unless otherwise authorized by the Town.~~

3. *Ownership and maintenance.* Ownership and maintenance shall be determined by the Town on a case by case basis through the review process.

   a. Generally, the Town shall own and maintain community parks, regional parks and public trails. Town ownership and maintenance of neighborhood parks will be decided on a case-by-case basis.

   b. Pocket parks, plazas, outlots and private recreational facilities shall be owned and maintained by a homeowners' association, metro district or the landowner.

   c. Environmentally sensitive, archaeological and historic resources may be dedicated to and maintained by the Town at Town's discretion.

   d. Stormwater detention and retention areas that function as open space shall be owned and maintained by a homeowners' association, metro district, or the landowner, unless otherwise approved by the Town.

   e. Areas designated as open space shall be maintained according the designated function of the area. Applicants shall develop a management plan which addresses: irrigation, revegetation, erosion control, and weed management. If the area is to remain in private ownership, a mechanism which will assure maintenance will be funded must be in place at the time of final plat.

D. *Open space requirements.*

1. Open space is defined as:

   a. Areas designated for preservation and protection of environmental resources including floodplains, natural drainage ways, and wetland areas;

   b. Storm drainage facilities

   c. Areas designated for agricultural activities or preservation;

   d. Areas of archeological and historic significance; and

   e. Areas of critical or important habitat as defined by the Colorado Division of Wildlife.

   f. Common landscaped areas incorporated into properties zoned R-2, R-3, R-4, C-1, C-2.

2. Areas not counted as Open space:

   a. Required Park improvements shall not be counted towards the ten percent open space requirement.

   b. Required setback areas around oil and gas production facilities;

c. Disconnected remnants of land created by division of sites into lots or parcels that do not qualify as open space, unless approved by the Town;

d. Private yards of any homes or tree lawns if present in a subdivision;

e. Required parking lot landscaping associated with all uses, except parking specifically designated for access to open space areas and within commercial/industrial projects.

3. *Open space protection.* Areas designated as open space shall be protected by conveyance to the Town as provided on the plat and by this Chapter, deed restriction or other appropriate method to ensure that they remain open and cannot be subdivided or developed in the future without approval of the Town.

4. Open space requirement. Open space shall be required for ten percent of the total area of any project as approved in a Neighborhood Master Plan, and each filing or plat must also possess at least ten percent open space. Commercial use and industrial use only properties shall not be required to satisfy the open space requirements.

5. Required open space elements. Developments will be required to satisfy the following functional open space elements as per the following acreage requirements:

a. Developments consisting of five acres to 50 acres in total size, shall be required to satisfy two elements;

b. Developments of 50 acres to 200 acres shall be required to satisfy three functional open space elements, and;

c. Developments of 200 acres or more, shall be required to satisfy four (4) functional open space elements.

6. Functional open space elements. The following open space elements shall be considered when planning adherence to this requirement. Each element listed below counts as one regardless of quantity.

a. Useable detention areas ~~(1 and 2 Elements possible)~~: The area around a ~~A useable or improved~~ detention pond or water quality feature ~~(s)~~ that is a minimum of one continuous acre in size, and includes the required park infrastructure listed above with irrigated vegetation (with turf, trees, shrubs) and other amenities such as benches or picnic tables, ~~crusher refines~~ and a continuous loop trail, ~~that do not impede detention capacity, including a permanent irrigation system and higher quality construction materials (i.e., decorative rock for riprap), and/or ability for use as athletic fields,~~ to be perpetually maintained by the development, shall count as one element. ~~Useable detention areas to be utilized as athletic fields shall count as two elements. No water dedication will be required for useable detention areas.~~

b. Additional pocket park ~~(1 Element)~~: An additional pocket park(s) from that which is required under the park standards found in this development code, ranging from a third of an acre to two acres in gross size which meet the park standards herein ~~(add new code standard), shall count as one element. .~~

c. Agricultural preservation ~~(1 Element)~~: A farm placed in a permanent conservation easement of at least ten continuous acres in size, with proof of a permanent water source ~~shall count as one element~~.

d. Habitat Area ~~(1 Element~~): preservation of a natural habitat area, of at least five acres in size~~, shall count as one element~~. Existing Habitat areas to be considered, must provide an ecological study, verifying that it is a natural habitat. All habitat areas shall provide a 150-foot setback / buffer from any development. Habitat areas shall not require water dedication.

e. Greenway ~~(1 Element)~~: A permanent greenway 40 continuous feet in width, and at least a third of an acre in size, with an eight-foot crusher refine trail or eight-foot concrete trail~~, shall count as~~

~~one element~~. All improved greenway areas shall have water dedication calculated ~~at eight-tenths acre feet~~ in accordance with a hydrozone analysis and the water dedication section of this Chapter.

f. Green Area ~~(1 and 2 Elements)~~: Informal gathering area with irrigated turf, at least 50 continuous feet wide, and half an acre in size for unstructured recreational activities ~~shall count as one open space element~~. Green areas shall ~~may~~ include an amphitheater, trees along the perimeter, pollinator gardens or community gardens. Green areas shall~~hould~~ be flat, unless otherwise approved by the Town. All improved green areas shall have water dedication calculated ~~at eight-tenths acre feet~~ in accordance with a hydrozone analysis and the water dedication section of this Chapter.

g. Trailhead ~~(1 Element)~~: A trailhead built with five permanent parking spaces (one handicap), a bench, and garbage receptacles ~~shall count as one element~~. The trailhead must connect to an existing or proposed trail network. No water dedication shall be required for trailhead areas without public amenities requiring water provision.

h. Plaza for Mixed Use Developments (for Suburban and Urban zoning, C-1, C-2, R-3, and R-4) ~~1 or 2 elements~~: Open spaces available for civic purposes and commercial activities intended to add vibrance to the downtown or central areas of neighborhoods within mixed use developments. Plaza's must be at least 2,000 square feet in size, and 50 feet wide ~~shall count as one open space element~~. Trees and other landscaping will complement a mostly hardscape development pattern. ~~Plazas 5,000 square feet and over, shall count as two elements.~~

i. Community lawn ~~(1 or 2 elements)~~: Green Irrigated areas of over one continuous acre in size, and 75 feet in width, in the center of the development, in which building frontages orient to the lawn, and trees are planted within the perimeter~~, shall count as two elements~~. Building frontages must be rear or side loaded to receive credit. Water dedication for all community lawn areas (including trees and shrub areas) will be ~~set at eight-tenths acre feet.~~ established in accordance with a hydrozone analysis and the water dedication section of this Chapter.

j. Buffer areas ~~(1 element)~~: ~~Expanded c~~Continuous 60-foot wide ~~continuous~~ buffer areas along the entire perimeter of the development. These buffer areas shall include ~~, with~~ fencing that satisfies the Subdivision Identity Standards, and a landscaped berm inclusive of pollinator plant selection~~gardens, or irrigated berms shall count as one functional element.~~. Buffer areas shall be irrigated and the water requirement shall be calculated in accordance with a hydrozone analysis and the water dedication section of this Chapter ~~Water dedication for expanded buffer areas satisfying this section of the code, will be set at 0.8 acre feet.~~

k. Preservation of historically imporant or landmark properties and/or sites ~~(1 element)~~: The preservation of any landmark building and or site, or those sites and structures with historical significance to the Town's development, under the Historic Resources requirement section found in this Code~~s of Section 9 [sic] of this Code, shall count as one element~~.

30-6-111 Contribution for public school sites

To meet the increased need for schools as a result of increased housing, the applicant shall dedicate land areas or sites suitable for school purposes, or provide cash-in-lieu of land in the amount specified for every dwelling unit which may be constructed within the subdivision to serve the elementary, middle, and high school public school needs of the residents of such dwelling units. The Town may elect that public school sites may be transferred and conveyed to the Town or school district pursuant to stipulations in intergovernmental agreements between the Town and respective school district.

30-6-112 Public sites and dedication requirements

The developer of residential projects shall dedicate public sites for open space, parks, schools, or other civic purposes in accordance with the requirements of this Section to serve the proposed subdivision and future residents thereof. Acceptance of all land proposed for dedication is at the discretion of the Town.

1. *Land dedication*. Payments and dedications made under the requirements of this Section shall be made payable or dedicated to the Town. Dedication of such sites and land areas to the Town shall be free and clear of all liens and encumbrances. The applicant shall provide for the installation of the streets adjacent to the park and school sites, the installation of water, sewer and other public utilities to the park and school sites, and overlot grading of the park and school sites.
2. *Fee-in-lieu of dedication*. If there is not sufficient property on the plat to provide land for the entire school or park facility required, with the approval of the Town, the applicant may, in lieu of dedication of all or part of the land requirements, pay fees in lieu of the equivalent land areas which would have been dedicated to public facilities. Fees are to be calculated in the following manner:
    a. Fees shall be calculated based on the full market value of the land assuming the plat has been approved and proper zoning exists.
    b. Full market value shall be determined by mutual agreement between the applicant and the Town. In the event of inability of any of the above parties to agree on the value of the subject land, the applicant shall submit to the Town a written appraisal from a qualified appraiser meeting the value requirements set forth herein. Said appraisal shall be made by an individual or entity that does not have a financial interest in the subdivision and shall be a member of the Appraisal Institute (MAI), a member of the Society of Real Estate Appraisers (SRA), or such other qualified person mutually agreeable to the Town Administrator and the applicant. The applicant shall pay the cost of said appraisal.
    c. Such appraisal may be submitted during the review period of the final plat. If the Town believes that the appraised value is not accurate, it may obtain its own appraisal from a qualified appraiser at the applicant's cost, or determine the fair market value by such procedure as the Town deems appropriate.
    d. All fees-in-lieu of dedications are to be paid at issuance of a Building Permit unless otherwise agreed to by the Town.
    e. For subdivisions that are platted in phases, the above calculations can be made on a phase-by-phase basis through methods to be devised by the Town realizing that by virtue of developing one phase, the value of the undeveloped adjacent phase will increase. The applicant has the option of paying the fees for all phases upon the due date of fees for the first phase.

30-6-113 Landscape design

A. *Intent.* To preserve Town's special character and integrate new development by promoting quality landscape design. The standards found in the Town of Berthoud Landscape Design Guidelines shall be incorporated into landscape plans, and also reflect the following:

1. Reinforces the identity and creates a sense of place for each neighborhood~~;~~
2. Provides tree-lined streets with canopy tree species in urban areas~~.;~~
3. Anchors new buildings within the landscape.
4. Provides tree canopies within paved areas.

5. Preserve existing trees, utilize water conservation techniques, and support the planting of native species (when appropriate), to enhance the natural habitat.

6. Enhances natural features, and drainage ways.

7. Enhance functional open space through the creation of natural areas appropriate to the location and purpose of the open space within the development.

8. Maximizes connections within development sites to natural areas and to landscaped areas in adjacent developments.

9. Reinforces neighborhood identity, creates a sense of place, and creates consistency between proposed developments and the surrounding areas.

10. Incorporate the elements of gateway, path and destination into the design of landscapes.

a. Gateways are entries that provide transitions from one space to another.

b. Pathways are routes that lead to a destination.

c. Destinations are focal points that can include anything from a garden bench at the end of a path to a civic building at the end of a street.

B. *General provisions.* All land development applications except for building permits for individual attached or detached single-family residences shall be accompanied by an appropriate landscape plan. New landscaping within the community shall comply with the following ~~se~~ regulations as well as those in the most recent version of the Town's Landscape Design Guidelines.

1. *Site landscape design regulations.* Landscape improvements shall be an integral part of the overall site design for all residential common areas, multi-family developments, and any non-residential development/property. Landscape improvements shall be designed to complement and enhance the character of the existing neighborhood and shall follow these guidelines.

2. Any development or platted final plat with five or more units shall retain a licensed landscape architect to prepare landscape plans for front yards. To the greatest extent possible, these landscape plans should vary in design between adjoining lots. See the Landscape Design Guidliens for all landscape requirements.

a. Front yard landscaping should visually integrate the adjacent natural landscape where applicable.

i. Trees must be planted ten feet away from utility lines.

ii. Each front yard should have at least one ornamental tree. Front yard trees should be of at least one and one-half-inch caliper in size.

3. ~~a.~~ *Environmental considerations.* Landscapes shall use the following water conserving principles:

i. Well-planned planting schemes;

ii. Appropriate turf selection to minimize water consumption and the use of bluegrass;

1. Irrigated turf grass with a high water requirement may only be planted according to planned use, only in areas or spaces used for recreation or for civic or community purposes. Such purposes may include playgrounds, sports fields or other athletics programming, picnic grounds, amphitheaters, portions of parks, and playing areas of golf courses. Such purposes do not include, and irrigated turf grass with a high water requirement must not be planted in, parking lots or medians. Irrigated turf grass with a high water requirement may only be planted for recreation, civic or community purposes. Irrigated turf grass with a high water requirement refers to high- or moderate-hydrozone sod forming grasses including species such as Poa pratensis (Kentucky bluegrass), and turf-type tall fescue (Festuca arundinacea) and their varieties and cultivars. ~~1. Bluegrass and~~

~~other high-water consuming turf grasses should be reserved for spaces intended for recreational activities, or should be used as borders to larger areas of non-turf landscaping;~~

2. Irrigated turf grass species with a low water requirement may be located on a site as appropriate for the species and planned activity. Well-maintained irrigated turf grass with a low or very-low water requirement and that also does not meet the definition of "turf" set forth in C.R.S 37-60-135(2)(i) and well-maintained regionally adapted or native grass species are not subject to the irrigated turf limits.

iii. Use of mulch to maintain soil moisture and reduce evaporation;

iv. Placement of plant materials according to their microclimatic needs and water requirements;

v. Improve the soil with organic matter if needed;

vi. Efficient irrigation systems that reduce spray over and conserves water;

vii. Proper maintenance and irrigation schedules; and

viii. Group plantings of similar water requirements together.

b. All landscapes shall strive to maximize the use of native species as specified in the Town's Landscape Design Guidelines. Where native material is not appropriate for the intended use or appearance, plant species that are regionally adapted and noninvasive may be used.

c. Landscapes shall consist of a variety of species to enhance biodiversity.

d. Buildings and parking areas shall be located to preserve and promote the health of existing trees, environmental resources and natural drainage ways. No healthy tree shall be removed without good cause. If a healthy tree is removed with cause, it must be replaced with comparable trees per a tree mitigation plan. This requirement is not intended to prevent the removal of unhealthy trees in conjunction with site development.

e. Where possible, trees shall be located to provide summer shade and limit winter shade on walks and streets.

f. A combination of plantings, berms, walls and fences shall be used as appropriate to buffer sensitive habitat.

g. Weed control will be practiced on all areas disturbed by construction and those areas shall be reseeded to prevent erosion. Native, noninvasive grasses shall be used for revegetation where practical. Weed control is the responsibility of the landowner on all reseeded areas and preservation areas. Weed control shall be a continual responsibility of the owner during all phases of land clearing and construction.

h. Native grasses shall not be planted immediately adjacent to fences, buildings, sidewalks, or concreate trails. A minimum landscaped buffer of 10 feet shall exist between areas of native grass areas and fences, buildings, sidewalks, or concrete trails.

2. *Plant material standards.*

a. The minimum planting sizes on all required landscaping shall be two inch caliper deciduous trees, one and one-half inch caliper ornamental trees, six foot tall evergreen trees and five gallon shrubs.

b. Plants shall be healthy, well-branched vigorous stock with a growth habit normal to the species and variety and free of diseases, insects and injuries. A variety of plant species should be installed to prevent the spread of disease.

c. All plants shall conform to standards for measurements, grading, branching, quality, ball and burlapping as stated in the current edition of the American Standard for Nursery Stock, American Association of Nurserymen, Inc., (AAN-ASNS) and the Colorado Nursery Act of 1965 (CNA).

d. Plants shall be no more than 24 inches in height at plant maturity when located in a sight distance triangle.

3. *Irrigation.* This Code mandates landscaping and installation of permanent automatic underground sprinkler systems containing rain/freeze sensors and WPA Watersense weather-based (ET) irrigation controllers ~~moisture sensors~~ in all parks and open spaces within new developments, except for (i) Natural Areas undisturbed by development, (ii) Open Water, and (iii) all impervious surfaces. All irrigated landscaping shall be established and maintained in a live and weed-free condition. Irrigation shall be appropriate to the type and scope of the improvements. Refer to the Town's Irrigation Plan guideline.

   a. Water Dedication Requirements. Water dedication for irrigation purposes shall be in accordance with the Imposition of Development Fees Section of this Development Code.

   b. Criteria and process for determining Natural Areas and Open Water. Town staff in its discretion, with final approval of the Town Administrator, may determine that areas qualify as Natural Areas or Open Water in accordance with the definitions found in the Definitions and in the Imposition of Development Impact Fees Sections of this Chapter.

   c. Use of non-treated water for irrigation is encouraged if a permanent, suitable supply is available. Gravity flow irrigation using irrigation ditches for areas planted with native seed may be permitted as an alternative to installing permanent automatic underground sprinklers where deemed acceptable and appropriate by the Town staff in its discretion, with final approval by the Town Administrator. Areas planted with native seed are to be irrigated until the area is well established.

   d. Sleeving for the future installation of irrigation lines shall be provided under walkways and paved areas where irrigation may be installed in order to prevent or minimize damage and replacement to paved areas.

   e. Irrigation systems shall be drip irrigation where possible in planting beds and for shrubs, trees, etc. All irrigation systems shall be designed to prevent overspray and runoff onto paved or other non-landscaped areas.

   f. All automatic irrigation systems must be installed with moisture sensors.

4. *Guarantee of installation.* Required landscape improvements shall be installed prior to issuance of a Certificate of Occupancy for all structures. If weather conditions prevent installation, the developer, builder or applicant shall post a financial guarantee for the improvements. This guarantee shall be released by the Town upon completion of the installation of the landscaping and expiration of any warranty period.

5. *Maintenance, removal, and replacement.* All property owners/occupants, Homeowner's Associations and Metro Districts shall be responsible for maintenance, removal and replacement of trees and landscaping within the portion of the public right-of-way between the back of the curb or street pavement and the adjacent property as defined in the approved land use application in perpetuity. All property owners/occupants of mixed use, commercial or industrial property with an approved Final Development Plan or Site Plan are responsible for the maintenance and replacement of landscaping as shown on that approved plan.

   a. Seventy-five percent of all landscape areas shall be covered with living ground cover. The recommended ground cover should be attained within three years of the date of planting. The use of non-living ground cover, such as rocks, gravel and bark, should be used sparingly; non-living ground cover is generally most suitable as accent treatment.

b. Notwithstanding any other provision in this code, any street tree that is diseased, is dying or has died shall be removed from the public rights-of-way in consultation with the Town Forester and the Street Tree Work Permit provisions of this Code. The Tree shall be replaced by the adjacent homeowner in consultation with the Town Forester within the same growing season of removal, as practical due to weather.

6. *Weed control.* Weed control shall be a continual responsibility of the owner , developer, Homeowners Association or Metro District from site construction and grading to occupation of the business or residence.

a. Every effort shall be made to prevent the spread of noxious weeds.

C. *Landscaping design standards.*

1. *Landscaping in common open space areas.* Common open space areas are lands meant to be enjoyed by the general population, includes lands reserved for pocket parks and along trails. Landscaping shall be appropriate to the use and function of the area and include trees, shrubs, groundcover, irrigation and paving. Native grass is appropriate for trail corridors while Kentucky bluegrass is appropriate for more active park areas and some open spaces.

a. A mechanism for long-term maintenance of common open space and arterial and collector street right-of-way landscaping is required, inclusive of the long-term viability and efficiency of the irrigation system. This may take the form of an approved maintenance plan by the developer, a Homeowners' Association or Metro District.

2. *Tree-lined streets.* The Town of Berthoud has a long, rich heritage of tree-lined streets. Today street trees and their conditions are a concern to those involved in urban forestry and the Town has the authority and obligation to assure that vegetation planted on public rights-of-way meets certain standards and is maintained, as approved in perpetuity. Tree plantings should be made with the same methodical planning that is used when making substantial financial investments. To comply with the Streets and Alleys Section of the Design Guidelines Section of this Code there are three options to achieve this requirement:

a. *Tree strips ~~lawns~~ with detached sidewalks:*

i. Tree strips ~~lawns~~ are recommended in all developments.

ii. Tree strips ~~lawns~~ along Local streets shall be a minimum of six feet in width to ensure adequate room for root growth. Tree strips ~~lawns~~ along Collector or Arterial streets shall be a minimum of ten feet in width.

iii. Trees shall be aligned in straight rows, located in the middle of the tree strip ~~lawn~~, and spaced between thirty feet and forty feet (as appropriate given the species) on center in order to allow for mature spread. If two or more consecutive residential lots along a street each measure between 40 and 60 feet in street frontage width, one tree per lot may be substituted for the 30-foot to 40-foot spacing requirement. Such street trees shall be placed at least five feet away from the edges of driveways and alleys, and 40 feet away from any streetlight and to the extent reasonably feasible, be positioned at evenly spaced intervals.

b. *No tree strips ~~lawns~~, attached sidewalks:*

i. In limited cases attached sidewalks will be allowed.

ii. Trees installed along streets without a tree strip ~~lawn~~ shall include a mix of species, be generally aligned along the street frontage and may be placed outside of the public right-of-way.

iii. Trees shall be irrigated from the adjacent private property owner.

iv. Trees installed along streets that will be widened in the future shall take into account plans for future widening of streets so that established trees will not be disturbed during future construction.

v. Street trees along rural streets where there is no sidewalk may be planted to create irregular clusters to reinforce the design and character of the project and frame views. Downtown streets — The properties generally located within the boundary of Massachusetts Avenue, Welch Ave, 1st Street, and LCR 17 are encouraged to provide decorative hardscaping, window boxes, planters, tree boxes, benches and street art, in order to attract pedestrian activity. Trees planted within paved environments shall have a minimum four-foot wide square tree well with grate.

c. *General regulations for trees to be planted on public right-of-way:*

i. All newly-planted street trees shall be planted midway between the sidewalk and the curb. Trees shall be spaced to allow for safe, healthy, attractive growth.

ii. No trees will be planted closer than five feet to an driveway or alley, nor shall it be planted in such a manner that eventual growth cannot be reasonably maintained to avert interference with, or obstruction of, any improvements installed for the public benefit such as traffic and street signs and lights, fire hydrants, overhead utility wires, street lights, utility poles, etc.

iii. At edges of streets where a space of less than five feet in width exists between the curb and the abutting private property line, no trees or woody plants shall be planted on the public area so involved.

iv. Where an attached sidewalk has been installed, no tree plantings are to be made closer than five feet from the edge of any concrete installation.

v. Trees are not to be planted within ten feet of either side of water, sewer, or storm drain main lines or within five feet of either side of water or sewer service lines.

vi. No more than six of the same plant genus may be used consecutively in a row-type planting.

3. *Minimum species diversity.* To prevent uniform insect or disease susceptibility and eventual uniform senescence on a development site or in the adjacent area or the district, species diversity is required and extensive monocultures are prohibited. The following minimum requirements shall apply to any development plan.

Number of trees on site	Maximum percentage of any one species
10—19	50%
20—39	33%
40—59	20% species; 30% genus; 40% family
60 or more	15% species; 20% genus; 30% family

4. *Tree species and minimum sizes.* The Applicant shall provide a proposed list of trees from the Landscape Design Guidelines, to be reviewed by the Town Forester and Community Development Department which shall be acceptable to satisfy the requirements for landscape plans, including approved canopy shade trees that may be used as street trees. The following minimum sizes shall be required except as provided in the section below regarding trees permitted witnin rights0of-way below.

Type	Minimum Size
Canopy Shade Tree	2.0" caliper balled and burlapped or equivalent
Evergreen Tree	6.0' height balled and burlapped or equivalent

Ornamental Tree	1.5" caliper balled and burlapped or equivalent
Shrubs	5 gallon or adequate size consistent with design intent
Canopy Shade Tree as a street tree on a Residential Local Street Only	1.5" caliper container or equivalent

i. Any tree plantings that are in addition to those that are made as part of the approved landscape plan are exempt from the foregoing size requirements.

ii. Ornamental trees shall be planted in substitution for the canopy shade trees required in where overhead lines and fixtures prevent normal growth and maturity. Ornamental trees shall be placed at least 15 feet away from any streetlight.

iii. A permit issued by the Town Forester, will be required prior to the planting of any Street Tree (or tree on public land). Any violations will follow the provisions found in the Enforcement Section of this Chapter, and may result in the Town withholding permits and Certificates of Occupancy.

iv. The caliper shall be measured six inches above the tree-line.

5. *Trees permitted within rights-of-ways.*

a. Refer to the Town of Berthoud Landscape Design Guidelines for the most current list of tree species allowed on public lands or within the public right-of-way (seven feet in width or larger).

b. *Trees in public lands:* Refer to the Town of Berthoud Landscape Design Guidelines for the most current list of tree species permitted to be planted within parks, common areas, open spaces, and other public lands.

c. Refer to the Town of Berthoud Landscape Design Guidelines for the most current list of prohibited tree species within the Town of Berthoud right of way or on public lands.

D. *Business/commercial and industrial development shall meet the following standards in addition to those within the Town of Berthoud Landscape Guidelines.*

1. *New buildings and paved areas.* Provide trees, shrubs and groundcover plantings along front and sides of new buildings. The size and intensity of plantings shall be appropriate to the building or structure.

2. Integrate adjacent land uses of different intensities through a combination of berming, plantings and fencing. Use opaque screening only when necessary to mitigate the impact of noise, light, unattractive aesthetics and traffic. A fence shall not be the only screening material used.

3. Use landscaping to provide a transition from developed, managed landscape to more natural areas and vegetation.

4. Provide a tree canopy by installing shade trees within and adjacent to paved areas.

E. Residential R-3, R-4 and Commercial and Industrial zone districts shall include landscaping standards to meet the Town of Berthoud landscape Guidelines. Landscape improvements shall be designed to enhance the overall appearance of the development and to integrate the project with adjacent land uses and into the surrounding neighborhood

1. The developer or assigns shall provide:

i. A minimum of 15 percent of the site (gross) shall be landscaped area.

ii. *Site trees* — plant a minimum of one tree per 1,000 square feet of landscaped area, distributed on the site, exclusive of right-of-way landscaping.

iii. *Shrubs* — plant a minimum of one shrub per 150 square feet of landscaped area, exclusive of right-of-way landscaping. Group shrubs and distribute throughout the site. Trees may be substituted for up to one-half of the required shrubs at the rate of one tree for six shrubs.

iv. *Groundcover* — establish irrigated grass turf maintained to appropriate standards for active recreation in areas that will function for active recreation. Where appropriate, use native grass for areas that will not function as active recreation areas. There shall be a minimum of 75 percent live materials between the building and the street unless otherwise approved by the Town.

v. *Landscape setback to parking lots* — 15 feet from streets to provide a buffer between the street and parking areas.

vi. *Screen loading areas* — Loading areas (including vehicles being loaded), service and storage areas visible from the public right-of-way or adjacent property must be screened from view with an opaque screen that is an integral part of the building architecture, or by landscaping. Chain link fencing with or without slats, tires, or used building materials is not acceptable as screening material.

1. Utility Boxes, loading docks, outside trash receptacles and dumpsters, storage areas, and any other outdoor storage areas shall be screened in the following manner: Whenever plants are used as a screen the plants should be coniferous. They should provide an opaque screen within three years of the time they are planted.

2. Utility boxes, including, but not limited to, electric transformers, switch gear boxes, and telephone pedestals, and boxes should be screened on all sides not used for service access.

3. The materials and colors of the screen should blend with the site and the surroundings.

4. Trash enclosures should be placed around dumpsters and any other proposed receptacles of trash. The dumpster should be screened entirely from view. The enclosure shall prevent trash from being scattered by wind or animals. The dumpster should be placed on a concrete pad, enclosed by an opaque wall at least six feet in height, with opaque gates. The enclosure should be sturdy and built quality wood and or/masonry materials. The trash enclosures should be sited so the garbage truck has convenient access to the enclosure and has room to maneuver without backing onto a public right-of-way.

2. The property owner or occupant shall be responsible for landscaping located within adjacent road right-of-way and tree strips ~~lawns~~ in accordance with Town regulations, which includes the maintenance, removal, and replacement of trees, shrubs, and groundcover.

3. *Parking lot landscaping standards shall meet the following standards in addition to those within the Town of Berthoud Landscape Guidelines.*

i. The developer or assigns shall provide:

1. At least five percent of all parking lot are shall be landscaped (this requirement is in addition to the overall 15 percent landscaping requirement for the site. Parking lot landscaping is intended break up large expanses of pavement, create shade, buffer views of parking lots from adjacent streets and development and enhance the overall appearance of each project. All parking lots with ten spaces or more shall be subject to these requirements.

2.. *Site trees* — a minimum of one tree per five parking spaces. Group trees together in islands which are a minimum of nine feet wide. Use the landscaping to break up large expanses of pavement and to create a tree canopy for summer shade.

3. *Shrubs* — a minimum of one shrub per 100 square feet of landscaped area. Group plantings in landscape islands.

4. *Groundcover* — Irrigated turf grass with a high water requirement shall not be used in parking lot landscaping per C.R.S 37-60-135(2)(i). ~~limit areas of irrigated turf. Grass is discouraged in areas less than ten feet wide. Install a grass buffer (native grass where possible) around the perimeter to filter runoff and improve water quality.~~

5.. *Landscape setback to parking lots* — 15 feet from all arterials, collectors, and other streets. The purpose of the setback is to provide a buffer between the street and parking areas and to screen the parking from the street.

6. *Provide a mechanism for long-term maintenance of landscaping* — all landscaping within and adjacent to parking lots shall be owned and maintained by the landowner.

7. *Screening:* whenever there are more than three parking spaces on the property, the parking lot should be screened for at least two-thirds of the length of the parking lot, and shall satisfy the following standards:

a. Berms, walls, fences, plants, planters or similar means should be used to create the parking lot screen. Whenever structures such as walls or fences are used to create a screen, plants should be located on the sides of the structure which can be seen from surrounding streets, walks, parks, trails and other properties which are used by the public.

b. The screen around the parking area should be at least three feet higher than the surface area of the parking lot. Whenever plants are used to create a screen, the plants should create a three-foot screen within three years from the time planted.

8. *Landscape islands:* Two feet at the end of each landscape island should remain unplanted, as the end points of islands are often run over by cars. The use of cobbles, patterned concrete, or brick pavers should be considered.

9. Landscape areas in parking lots shall be no smaller than 80 square feet each, and shall contain at least one tree and five shrubs for each island. Islands larger than 80 square feet shall contain one additional shrub for each additional 20 square feet of area, and one additional tree for each additional 200 square feet of area.

10. Pedestrian and/or vehicular access ways should be extended to the property line in order to interconnect with other adjacent commercial/industrial parking lots, sidewalks, and/or trails, with landscaping to enhance such connections.

4. Storm drainage facilities as public open space or park lands and shall follow the Town of Berthoud Landscape Design Guidelines. For drainage facilities proposed and accepted as open space or park lands the following requirements apply.

a. If a proposal is made to dedicate a Detention basin or Retention basin to the Town, the Town shall determine if it serves the public interest. Public interest shall be based on ease of maintenance, potential use of the area for open space or recreation uses by the public, whether the area would complement the Town's park or greenway system, and/or whether the applicant shall provide for ongoing maintenance of the facility.

b. If the Town accepts dedication of a Detention basin or Retention basin, or if the Detention basin or Retention basin is intended to be part of a pocket park or common open space area, regardless of ownership or maintenance, the following standards shall apply:

i. The bottom of the pond shall be planted with turf grass or similar, in order to provide an active playing field, and irrigated at 3 AF/Ac.

ii. Slopes shall comply with Town standards but in no case shall exceed a slope of 6:1. Slopes shall be planted with either native seed ~~or turf~~ and irrigated according to the Town's Engineering Specifications and Standards and provisions found in the Berthoud Development Code.

iii. Trees shall be planted at the top of the retention pond at a distance of one tree every 40 linear feet, and irrigated at 1.33 AF/ac. Ground cover may include native seed and shrubs.

iv. Adequate access in the form of sidewalks and/or trails shall be provided to the detention basin or Retention basin for pedestrians, the physically disabled and for maintenance equipment.

v. Drainage structures shall be designed and located to facilitate maximum use of the detention area for recreational use.

c. Amenities such as benches, play equipment, game courts and playing fields appropriate to the size and location of the detention pond shall be required and based upon proposed/existing adjacent uses unless the detention pond location or design does not reasonably accommodate the amenities. On one acre or less, fewer amenities are required. The applicant shall be responsible for installing all amenities per Town standards.

F. Submittal standards for landscape plans can be found in the Subdivision and Land Use Regulations section of this Chapter.

G. *Street Tree Work Permit.*

1. *Intent.* The Town of Berthoud Street Tree Work Permit is intended to promote a more overall healthy and sustainable urban forest by allowing Forestry Staff to develop a greater understanding of management needs and maintenance being performed on trees that are located within ~~Tree Lawn's~~ tree strips as that term is defined in Definitions Section of this Code. This program is intended only for trees located within ~~Tree Lawns~~ tree strips for which property owners/occupants are responsible for maintaining, removing, and replacing pursuant to the Development review deposit and reimbursement of Town costs Section as well as this Street Tree Work Permit Section after developments are out of warranty; not trees located on private property.

2. *Definitions.* As used in this Section and in the Development review deposit and reimbursement of Town costs Section, the following words will have the meanings indicated:

a. *Applicant* means an individual who is a natural person who owns a Property, and by virtue of said ownership is required to maintain, remove, and replace trees located within the Tree Lawn adjacent to Applicant's Property.

b. *Property* means a parcel of real estate within the Town of Berthoud, Colorado, which is adjacent to a tree strip ~~Tree Lawn~~.

c. *Tree Strip ~~Lawn~~* shall have the same meaning as defined in the definition section of this Chapter.

d. *Right-of-Way*, as defined in the Definition Section of the Berthoud Development Code, is a strip of land occupied or intended to be occupied by a street, crosswalk, railroad, road, electric transmission line, oil or gas pipeline, water main, sanitary or storm sewer main, irrigation ditch or for another special use.

e. *Street Tree Work Permit* means a permit for performing maintenance on a tree that is located within a tree strip ~~Tree Lawn~~.

f. *Maintenance* includes pruning, chemical treatments of pesticides, fungicides, or fertilizers, replacement, removal or any other actions that may affect the health of a tree.

3. *Procedure.* The following procedure shall apply when an Applicant desires to apply for a Street Tree Work Permit:

a. Any Applicant may apply by filling out a Street Tree Work Permit Application ("Street Tree Work Permit Application") and submitting the Street Tree Work Permit Application to the Forestry Department. The Street Tree Work Permit Application shall be created and approved by the Town's Forestry Department, and may be amended from time to time in the sole discretion of the Forestry Department. There shall be no cost for obtaining a Work Permit Application.

b. Town Staff is authorized to review and either approve or disapprove Applicant's Street Tree Work Permit Application, and may contact Applicant if any additional information is required. Town Staff will review each Street Tree Work Permit Application for conformance with standards set by the Town Forestry Department, and which standards may be amended from time to time.

c. If Applicant's Street Tree Work Permit Application is approved, the Applicant will be contacted for further instructions. Street Tree Work Permit Applications are valid for 60 days after approval date. A follow-up site evaluation may be conducted and recorded after tree maintenance has been performed.

4. *Requirements.* The following requirements, in addition to any other requirements imposed by Town staff in their discretion, must be met prior to Applicant being granted a Street Tree Work Permit:

a. Tree maintenance, removal, and replacement must be performed by a Town of Berthoud Licensed Tree Service, or Applicant.

b. Applicant shall be responsible for all costs associated with maintenance, removal, and replacement of the tree(s) within tree strips. ~~Tree Lawns~~.

c. Tree pruning shall consist of crown raising, crown reduction, crown thinning (no more than 25 percent of live crown), crown cleaning, and root reduction.

d. Chemical treatments shall identify tree species and size, targeted insect/disease/deficiency, and product applied/application rate/application method.

e. Trees must be removed with good cause. Good cause, as used in this section, shall mean the subject tree is dead, dying, hazardous, in poor health, incorrectly planted, is of a prohibited species, or per part of a management plan.

f. After removal, stumps must be properly removed six to eight inches below ground level and all wood material must be removed from the work site within 48 hours.

g. New trees to be planted within tree strips ~~Tree Lawns~~ shall comply with the Town's Tree Planting Standards. The Town's Tree Planting Standards are attached to this Ordinance, and may be amended from time to time in the sole discretion of the Town.

h. New trees to be planted within ~~Tree Lawns~~ tree strips shall meet species, size, diversity, and spacing requirements per the Development review deposit and reimbursement of Town costs Section of the Berthoud Development Code.

5. A Street Tree Work Permit must be acquired prior to performing any maintenance, removal, or planting of any tree located in a ~~Tree Lawn~~tree strip.

6. Town Staff is hereby authorized and directed to develop an appropriate Street Tree Work Permit Application form to be submitted by an Applicant when such Applicant wishes to obtain a Street Tree Work Permit.

7. Town Staff is hereby authorized to inspect, conduct surveys, and perform maintenance as needed on any tree within tree strips~~Tree Lawns~~.

8. Any violation of any provision contained in this section shall be punishable by a fine up to $2,500.00.

30-2-114 Fences and walls

A. *Intent*. To ensure that walls and fences are attractive and in character with the neighborhood. The creation of fence "canyons" along streets and fence "walls" adjacent to parks, trails and sidewalks, open space areas, and other public areas where the majority of the view from the public right-of-way is of fences, is prohibited.

B. *General provisions*.

1. *Compatibility*. Walls and fences along collector or arterial streets or at edges of developments and constructed as part of the development shall be made visually interesting by integrating architectural elements such as brick or stone columns, varying the alignment or setback of the fence, softening the appearance of fence lines with plantings, or through similar techniques. A fence or wall may not consist of a solid, unbroken expanse for more than 50 feet.

2. *Prohibited fence materials*. Security fencing such as concertina or razor wire, barbed wire, or electrically-charged fences is prohibited unless specifically allowed by the Town. No stranded wire, barbed wire, or electrified fence shall be installed in any residential district. In commercial and manufacturing districts, the Town may grant a permit for the installation of security arms and barbed wire strands atop protective fences or walls.

3. *Retaining walls*. Retaining walls shall be designed to resist loads due to the lateral pressure of retained material in accordance with accepted engineering practice and shall not be unsightly or detrimental to abutting property.

4. *Height limitations*. Fences or walls shall be:

    a. On corner lots, each yard adjacent to a public right-of-way, excluding alleys, shall be designated as a side or front yard based upon the orientation of the house and the street address of the building. For purposes of this section, the side yard is that portion of a lot which is located between the primary structure and the side property line adjacent to the street. The designated side yard on a residential property will have a maximum fence height of four feet unless such fence is located at least 15 feet from the edge of the curb closest to the building or two feet from the edge of the sidewalk closest to the building or at the property line, whichever distance is greater; however, in no case shall a fence be located closer than two feet from the edge of the sidewalk. For properties whose rear property line abuts an alley, an eight foot site distance triangle must be maintained or the fence shall be a maximum of four feet in height for a distance of eight feet along the rear and side property lines.

    b. On all corner lots, no fence or wall shall be placed or maintained within the triangular yard space formed by the intersection of the curb lines of the intersecting streets, or flow line if there is no curb, and a line joining points on said curb or flow line 30 feet from the point of intersection of said lines.

    c. In commercial and manufacturing districts with Town approval, security arms and barbed wire strands atop protective fences or walls, provided that the lowest strand of barbed wire is maintained at least six feet above the adjoining ground level outside the fence. Agricultural districts may use stranded wire, barbed wire, or electrified fencing for agricultural purposes.

    d. No fencing or improvements may be installed on rights-of-way or easements owned or shared by the Town without first obtaining a building permit. The issuance of the building permit and the construction of any improvements shall only be done with the understanding and agreement by the owner(s) that the improvements will be immediately removed at the owner(s)' sole expense at the request of the Town.

Table 2.7: Fence requirements

Zone District	Front Yard	Side Yard	Rear Yard	Behind Structure	Side Yard Of Corner Lot 0'/15' from Lot Line Abutting a Street

TN	4'	6'	6'	6'	4'/6'
R1	4'	6'	6'	6'	4'/6'
R2	4'	6'	6'	6'	4'/6'
R3	4'	6'	6'	6'	4'/6'
R4	Height to be determined by use				
R5	4'	6'	6'	6'	4'/6'
C1	3'	6'	6'	6'	3'/6'
C2	3'	6'	6'	6'	3'/6'
M1	4'	8'	8'	8'	4'/8'
M2	4'	8'	8'	8'	4'/8'
AG	6'	6'	6'	6'	4'/6'

5. *Maintenance*. Dilapidated, unsightly or dangerous fences shall be removed or repaired when so ordered by the Town.

6. Permits for fences that encroach onto the public right-of-way shall be revocable at the discretion of the Town.

30-2-1156 Residential design standards

A. *Purpose.* The Board of Trustees of Berthoud have determined that residential development is a primary component of land use in this community and that the appearance of single or multi-family dwellings from the street is intrinsically related to the preservation of neighborhood character and quality of life.

B. *Applicability.* The design standards stated in this "section" are intended to implement strategies for residential development, and promote quality design of an urban environment. In an effort to avoid monotonous streetscapes, all residential development (including PUDs and development on individual lots or parcels) shall include a mixture of different lot sizes, dimensions, and housing models, as provided and described in this section, unless expressly exempt by this section. In addition to the requirements of this section, applicants will be required to follow *the Town of Berthoud Architectural Design Guidelines*.~~Repetitive front elevation dwellings shall not be located adjacent to or directly across the street.~~ The requirements of this Section shall not apply to the rebuilding of a structure not in conformance with this Section that has been damaged or destroyed by fire or natural disaster.

C. *Compliance required for building permit.* Compliance with this Section, as determined by the Planning Director, shall be required as a condition of the issuance of a building permit for any single or multi-family residential dwelling. A decision by the Planning Director may be appealed by the Applicant to the Planning Commission on appeal, acting as the Board of Adjustment. Architectural elevations shall be submitted with all site plans. Block diversity plans shall also be submitted as required herein, during the building permit process.

D. Suburban *Residential Design ~~dwelling~~ standards.* The intent of this section is to foster new residential development with architectural designs that create diversity and variety along residential streets.

1. *Exterior colors of residential dwellings.* Residential subdivisions and developments shall include a variety of exterior color palettes to provide diversity within the subdivision or development. Color palettes shall be included in the design guidelines submitted with a subdivision or development.

Fluorescent or intense colors shall not be used on any wall or roof of any dwelling or accessory structure.

1. *Street Patterns and Pedestrian and Bicycle Connectivity.*

    i. *Type:* Street Patterns may have either a Suburban curvilinear character or a gridded pattern.

    ii. *Walkability and bike-ability:* shall be guiding principles in the design of the overall subdivision pattern.

    iii. *Arterial and Collector Streets:* All arterial and collector streets shall provide dedicated bike lanes, and bike parking or racks should be provided where public or private amenities (Subdivision Identity, Open Space Elements, or Parks) are provided. All arterial and collector streets shall provide a minimum of ten-foot tree lawns. No residential lots shall load onto arterial or collector streets.

    iv. *Local Streets:* All streets must provide seven-foot detached tree lawns and five-foot minimum sidewalks along both sides of each road. Sidewalks shall be interconnected throughout, and connect to any nearby trails, parks, or open spaces. Painted bike lanes or shared bike lanes are encouraged on local streets.

2. *Architectural design of dwellings.* All dwellings and accessory structures shall provide quality architectural design that takes into consideration building massing and style, roof lines, window and door placement, exterior materials and colors and other architectural features. Also see *Town of Berthoud Architectural Design Guidelines* for all design guidelines

    i. ~~Dwellings on corner, end, or double frontage lots shall provide enhanced architectural features, such as windows and doors, porches and entry features, building materials, and other features that complement the front of the dwelling, along the sides or back of dwellings that face streets, drives, or open space areas.~~

    ~~ii. New or replacement dwellings, dwelling additions and accessory structures shall be designed to be architecturally compatible with the surrounding neighborhood, as applicable, in terms of building materials and colors, roof forms, building massing and style and other architectural features.~~

~~13~~. ~~*Lot diversity:* Housing types, block dimensions, garage placement, lot sizes and lot dimensions shall be significantly and substantially varied to avoid repetitive rows of housing and monotonous streetscapes.~~

~~a. *Mix of housing.* A mix of permitted housing types shall be included in any individual development plan., to the extent reasonably feasible, depending on the size of the parcel. All housing types shall be distributed evenly (of equal percentage distribution) throughout the development. In order to promote such variety, the following minimum standards shall be met:~~

3. *Lot diversity:* Housing types, block dimensions, garage placement, lot sizes and lot dimensions shall be significantly and substantially varied to avoid repetitive rows of housing and monotonous streetscapes.

    a. *Mix of housing.* A mix of permitted housing types shall be included in any individual development plan.. All housing types shall be distributed evenly (of equal percentage distribution) throughout the development. In order to promote such variety, the following minimum standards shall be met:

        i. A minimum of three housing diversity types shall be required in residential development containing 20 acres or less, including such plans that are part of a phased overall development;

ii. A minimum of four housing diversity types shall be required in residential development containing more than 20 and less than 40 acres, including such plans that are part of a phased overall development;

iii. A minimum of six housing diversity types shall be required in residential developments containing between 40 and 80 acres including such plans that are part of a phased overall development;or more;

vi. A minimum of eight housing diversity types shall be required in residential developments containing 80 or more acres, including such plans that are part of a phased overall development.

~~i. A minimum of three housing diversity types shall be required in residential development containing 19 or few acres, including such plans that are part of a phased overall development;~~

~~ii. A minimum of fourtwo housing diversity types shall be required in residential development containing 20 acres or more, including such plans that are part of a phased overall development;~~

~~iii. A minimum of six ivethree housing diversity types shall be required in residential developments containing more than 30 40 acres including such plans that are part of a phased overall development;or more; and a minimum of four housing types shall be required on any such project development plan containing 50 acres or more.~~

~~viii. A minimum of eight six four housing diversity types shall be required in residential developments containing more than 50 80 acres, including such plans that are part of a phased overall development.~~

~~b. To the maximum extent feasible, housing types, block dimensions, garage placement, lot sizes and lot dimensions shall be significantly and substantially varied to avoid repetitive rows of housing and monotonous streetscapes. For example, providing distinct single-family detached dwellings or two-family dwellings on larger lots and on corners and providing small lot single-family dwellings on smaller lots abutting common open spaces fronting on streets are methods that accomplish the lot diversity requirements set forth in this subsection.~~

1. ~~In addition, diversity and density is to be spread within developments in a harmonious fashion and not located in one area. Disconnected areas of density or different lot and uses will not be permitted.~~

c. The following is a list of Housing Diversity types in the Town of Berthoud~~, contingent upon the Land Use Table allowances~~, to be used to meet the requirements listed above, contingent upon the Land Use Table allowances. ~~list provides housing diversity types available to satisfy this Lot Diversity requirement:~~;

1. Rowhomes or Townhouses
2. Paired Homes, Duplex with separate accesses points visible from the street
3. Paried Homes, Duplex with a ~~common shared access~~ common entry
4. Live/Work units
5. Clustered Homes (type of residential development where homes are built close together—typically on smaller lots than traditional subdivisions—**with centralized shared open space**~~)~~
6. Tiny Single Family Residential Lots (less than 30' wide)
7. Small Single Family Residential Lots (30'-40' wide)

8. Standard Single Family Residential Lots (40'-70' wide)

9. Large Single Family Residential Lots (over 70' wide)

10. Any Residential Lot can be diversified by providing driveway access with either rear yard garage placement or alley loaded garage placement

11. Multifamily (single stair) with common entry

12. Multifamily (elevator)

~~1. Multifamily with one common exterior entrance~~

~~1. All development containing a residential component shall utilize at least one of the following to meet the housing diversity requirements:~~

~~i. Single-family detached dwellings with rear-loaded garages.~~

~~ii. Single-family detached dwellings with single-track driveway and attached or detached garages recessed to the rear of the lot.~~

~~iii. Single-family attached dwellings.~~

~~iv. Mixed-use dwelling units.~~

~~v. Multi-family dwellings containing more than four units per building.~~

~~2. The following list provides housing diversity types available to satisfy this Lot Diversity requirement:~~

~~i. Single-family detached dwellings with rear-loaded garages.~~

~~ii. Single-family detached dwellings with single-track driveway and attached or detached garages recessed to the rear of the lot.~~

~~iii. Single-family detached dwellings with front- or side-loaded garages.~~

~~iv. Single-family detached dwellings, clustered.~~

~~v. Small lot single-family detached dwellings (i.e. lots containing less than 4,000 square feet or with lot frontages of 40 feet or less) may be used to satisfy the lot diversity requirements if: 1) there is a difference of at least 2,000 square feet between the average lot size for small lot single-family detached dwellings (insert that average size) and 2) the average lot size for single-family detached dwellings with front or side loaded garages.~~

~~vi. Single-family attached dwellings. Two family dwellings.~~

~~vii. Mixed-use dwelling units.~~

~~viii. Multi-family dwellings containing more than three units per building.~~

~~9. ix. Multi-family dwellings containing more than three and less than seven five to seven units per building.~~

~~10. x. Multi-family dwellings containing more than seven units per building (limited to 12 dwelling units per building).~~

~~11. Manufactured odular homes.~~

~~12. Commercial uses.~~

~~13. A mixture of lot sizes is provided within one block (i.e. 40 feet wide lots with 80 feet wide lots), on at least 30 percent of the lots.~~

~~24~~. *Housing elevation~~model~~ diversity ~~detached~~:*

a. Different housing elevations~~models~~ are distinct in ~~both floor plan and~~ exterior massing and architectural detail. The following housing elevation diversity requirements apply:.

- Diversity type count 100 and above - **twelve** different housing elevations for that diversity type will be required.
- Diversity type count 51 - 99 - **eight** fferent housing elevations for that diversity type will be required
- Diversity type count 21 – 50 - **six** different housing elevations for that diversity type will be required
- Diversity type county 8 – 20 – four
- Diversity type count 2-7 - **two** different housing elevations for that diversity type will be required

~~- Diversity type count 100 and above - **six** different housing models for that diversity type will be required.~~

~~- Diversity type count 25-100 - **four** different housing models for that diversity type will be required~~

~~- Diversity type count 10-25 - **three** different housing models for that diversity type will be required~~

~~- Diversity type count 2-10 - **two** different housing models for that diversity type will be required~~

~~Any development of 100 or more single-family detached dwelling units shall have at least six~~four ~~different housing models. Any development containing fewer than 100 single-family or two-family dwelling units shall have at least four~~three ~~different types of housing models.~~

b. Exterior elevations shall be distinct in exterior massing and architectural detail as outlined in the Town's Architectural Guidelines. ~~In addition to having unique housing model types, the following shall apply to all single family development~~

~~Corner lots should have porches that address each street elevation with a minimum of 6' in width and 5' in depth along each street frontage.~~

~~- Corner lots should have side yard to street elevations with improved exterior details and massing as suitable for a street side elevation.~~

~~- Garages should not exceed 50% of the street frontage of any housing model~~

~~- Garages should be recessed from the front elevation by a minimum of 2'~~

1. ~~Front setbacks on adjacent lots shall vary by at least four feet to provide for a varied streetscape, and verification of this standard shall be provided by the Applicant in the Block Diversity Plan.~~

~~b~~c. ~~In addition to having unique housing model types, each housing model type shall have a minimum of two unique architectural elevations exterior designs. Each development must take measures to allow for multiple material palettes available to each housing type to further distinctions along the street front and comply with block diversity requirements. Exterior distinctions of each design shall be determined by using the following unique elements for each exterior design . Each elevation shall be distinguishable from one another and shall have at least four of the listed building elements which clearly and obviously distinguish it from other elevations of the same model:~~

~~i. Unique porchesPorches and front entries that include different architectural styles, building materials, sizing, or placement;~~

~~ii Exterior materials (e.g. stucco, natural wood, cement fiberboard, rock, brick, etc.);~~

~~iii. Garage orientation and point of access. Unique garage styles will also be considered (e.g. carriage doors, raised panel, contemporary, etc.); iv. Roof types (e.g. gable, hip, lean-to, dormer, etc.); Regional architectural patterns (eg: cottage, craftsman, American vernacular, modern, traditional)~~

~~v. Creative design alternatives not stated above~~

~~vi. Regional architectual patterns (eg: cottage, craftsman, American vernacular, modern, traditional) Any two elevations that are distinctly different architectural styles (e.g. colonial, cottage, craftsman, farmhouse, French country, modern, ranch, traditional, Tudor, Victorian, etc.) shall be exempt from these requirements.~~

~~vii~~d. ~~One Any iv. Any.AnyvAnyofone of the following creative design elements found below may be used to remove one housing model type from the development requirement: If i. and iv., listed above are satisfied, an applicant will receive two building element credits by using one of the following creative design elements:~~

~~No less than 30% of the building material on all housing types in the development should be full depth masonry. Architecture/material type (selectas many as desired, only one, will qualify for one element):~~

- ~~Masonry (brick or stone) exteriors are provided on all four sides of 50 percent or more of buildings.~~
- ~~100 percent of models/lots have garage planes that take up less than 50 percent of the total length of the structure's front facade.~~
- ~~All homes on corner lots shall have wraparound porches with a porch depth a minimum six feet.~~
- ~~All homes on corner lots shall have two stories with different elevations.~~
- ~~50 percent of models on rear and side yards have partially improved exterior details or materials, such as brick, stone, or other architectural features~~

~~All homes are installed with solor panels at certificate of occupancy Energy sustainability standards (Select as many as desired, only one, will qualify for 1 element):~~

~~25 percent of housing types in the development are certified as net-zero homes by a third party before certificate of occupancy.~~

~~10 percent of housing types in the development have an accessory dwellling unit at certificate of occupancy.~~

~~10 percent of homes in the the development have deed restricted sale per developer in a format acceptable to the Town.~~

- ~~50 percent of homes in the block diversity plan are LEED certified (certified by third party before certificate of occupancy).~~
- ~~75 percent of homes have solar roof panels installed before certificate of occupancy. Solar panels must be installed in a manner that any conduit is concealed within the attic of the home, so that it is not visible from the ground. Conduit may be concealed behind the panels if an attic does not exist. Any conduit that is visible must be painted to blend in with the materials that the conduit is attached to.~~
- ~~25 percent of homes are certified as net-zero homes by a third party before certificate of occupancy.~~

~~Accessibility:~~

- ~~50 percent or more of homes are built with a ground-floor master bedroom and full bath.~~
- ~~10 percent of homes in the block diversity plan have built in accessory~~ dwellling unit~~, with separate entry and garage.~~

~~iii. The requirements for block diversity provided above shall not apply to developments containing five or fewer dwelling units.~~

c~~iv~~. Housing elevation ~~model, elevation and floor plan~~ requirements per street:

	# of Lots between on same side of street*	Lots Across the Street*	Cul-de-sacs
~~Floor Plan~~	~~Must be at least one lot apart, including abutting lots (or lots separated by a street or an alley)~~	~~Not across the street~~	~~Every 4 (3 lots between)~~Every 3
Elevation (must be distinct in nature to be considered a separate elevation-minor aesthetic changes will not be counted as separate elevations)	Every 4 ~~3~~(3 lots between)	Not across the street	Spaced not across, plus one down (or cattycorner) left and right on each side
~~Color~~ Material Palette (also must be a distinct color difference to be counted)	Every 4 (3 lots between)~~Every 3~~	Not across the street	Not across, plus one down (or cattycorner) left and right on each side
Front Porch/Staggered Setbacks	Front porches can be utilized instead of line of house, for staggered setbacks	Not applicable.	Staggered setbacks not required on cul de sacs

* Adjacent lots shall include abutting lots, or those lots separated by a street, alley, auto court, loop lane, or other common private drive.

~~3. *Housing Model Diversity Single Family Attached:*~~

~~i. For any development containing at least three and not more than five buildings (excluding clubhouses/leasing offices), there shall be at least two distinctly different building designs. For any such development containing more than five buildings (excluding clubhouses/leasing offices),~~

~~there shall be at least three distinctly different building designs. For all developments, there shall be no similar buildings placed next to each other along a street or street-like private drive. Building designs shall be considered similar unless they vary significantly in footprint size and shape.~~

~~ii. Building designs shall be further distinguished by including unique architectural elevations and unique entrance features, within a coordinated overall theme of roof forms, massing proportions and other characteristics. Such variation among buildings shall not consist solely of different combinations of the same building features.~~

d. The following shall apply to all single family development, as applicable~~.~~

1. Corner lots should have side yard to street elevations with improved exterior details and massing as suitable for a street side elevation.
2. Garages should not exceed 50% of the street frontage of any housing model.
3. Lots less than fifty (50) feet wide on the street frontage shall have either a rear-loaded garage, a side-loaded garage, or a single-lane driveway with a garage located at the rear of the lot.
4. Garages should be recessed from the front elevation by a minimum of 2'
5. Front setbacks on adjacent lots shall vary by at least two feet to provide for a varied streetscape, and verification of this standard shall be provided by the Applicant in the Block Diversity Plan.

4. *Block Diversity Plan.* The Block Diversity Plan is an opportunity for applicants to provide the Town with visual and graphic images showing the type of residential architecture that is to be constructed on each block of the proposed development. Applicants shall provide the Town with exterior elevations of proposed residential structures with the location of each structure depicted on the Final Plat (examples of the Block Diversity Plan format follow). Applicants can chose to submit Development Neighborhood Design Guidelines in place of a Block Diversity Plan ~~if desired~~. Guidelines should enforce the requirements of this section

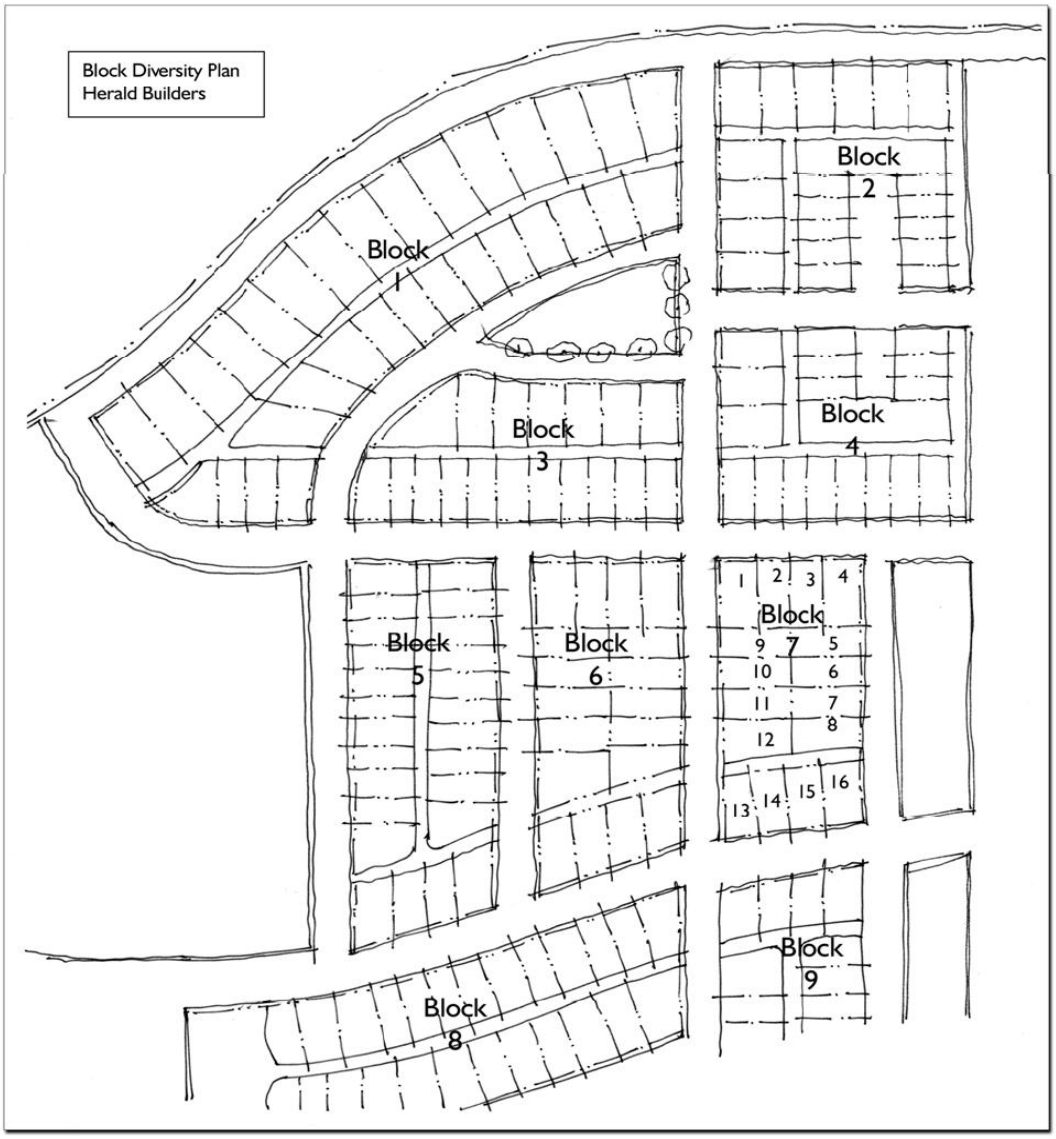
   i. *Applicability.* Every phase that would include five or more residential building permits must complete a Block Diversity Plan. The Block Diversity Plan will be submitted as part of the building permit process.

   ii. *Review and Approval.* Review of any Block Diversity Plan will be based upon conformance to the intent of the architectural and design policies found in this Section. Review and approval will be conducted and determined by Town Staff.

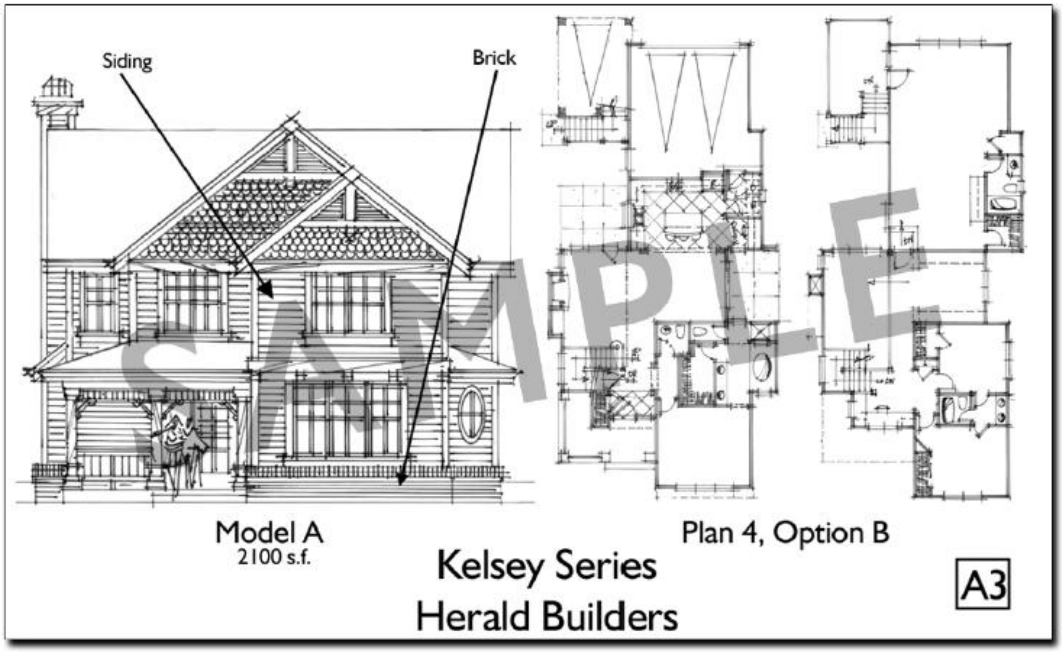
BLOCK DIVERSITY KEY									
DWG. NO.	BLOCK	LOT	SERIES	MODEL NO.	PLAN NO.	OPTION PACKAGE	EXTERIOR MATERIALS	STYLE	COLOR SCHEME
A3	2	15	KELSEY	A	4	B	BRICK/SIDING	VICTORIAN	7

SAMPLE

Sample Block Diversity Key



Sample Block Diversity Map to be submitted by the Builder/Developer, to illustrate housing mix.



Sample Elevation and Floor Plan Submittal

~~5. *Exterior colors of residential dwellings.* Residential subdivisions and developments shall include a variety of exterior color palettes to provide diversity within the subdivision or development. Color palettes shall be included in the design guidelines submitted with a subdivision or development. Fluorescent or intense colors shall not be used on any wall or roof of any dwelling or accessory structure.~~

~~6. *Architectural design of dwellings.* All dwellings and accessory structures shall provide quality architectural design that takes into consideration building massing and style, roof lines, window and door placement, exterior materials and colors and other architectural features.~~

~~i. Dwellings on corner, end, or double frontage lots shall include architectural features, such as windows and doors, porches and entry features, building materials, and other features that complement the front of the dwelling, along the sides or back of dwellings that face streets, drives, or open space areas.~~

~~ii. New or replacement dwellings, dwelling additions and accessory structures shall be designed to be architecturally compatible with the surrounding neighborhood, as applicable, in terms of building materials and colors, roof forms, building massing and style and other architectural features.~~

~~7. *Front setbacks:* Front setbacks on adjacent lots shall vary by at least two and one-half~~four feet to provide for a varied streetscape, and verification of this standard shall be provided by the Applicant in the Block Diversity Plan.

4. *Suburban Residential Landscaping Standards.*

a. Any development or platted final plat with five or more units shall retain a licensed landscape architect to prepare landscape plans for front yards. To the greatest extend possible, these landscape plans should vary in design between adjoining lots. See the Landscape Design Guidelines for all landscape requirements.

b. Front yard landscaping should visually integrate the adjacent natural landscape where applicable.

i.

v. Trees must be planted ten feet away from utility lines.

viii. Each front yard should have at least one ornamental tree. Front yard trees should be of at least one and one-half-inch caliper in size.

8. *Utility Services:*

i. Utility Location. Utility services shall be located underground when practical. Exceptions to the requirements of underground utilities are:

(i) Major electric transmission lines responsible for transporting power through the area rather than to the area;

(ii) Where the Community Development Director and/or Public Works Director determines that the underground utility location is not practical, above grade utilities shall be located behind structures in a utility "alley" easement approved by the applicable utility authority where practical.

~~9. *Garages.* To prevent residential streetscapes from being dominated by protruding garage doors, the following standards shall apply to all new residential development (including previously approved PUDs containing residential uses and development on individual lots or parcels).~~

~~i. All garages shall be located a minimum of 20 feet from the back of sidewalk or property line, whichever is more restrictive. Front garages are acceptable yet discouraged. Single-track drive to back yard garage. When this is done, can we say back yard garage can be 5' from property line/outside of easement and within setback? Side yard easement.~~

~~ii. Garages may make up no more than 65 percent of the length of the wall face of the building except when located on a lot within a cul-de-sac, or when such garage doors are located on the side of a dwelling facing a side yard street, wherein they may comprise up to two-thirds of the street-facing linear building frontage.~~

~~iii. Garages may make up no more than 50 percent of the length of the wall length of the wall face of the building except when located on a lot within a cul-de-sac, or when such garage doors are located on the side of a dwelling facing a side yard street, for lots 40 feet in width or less.~~

~~iv. If there are three or more bays included in the façade, only two garage doors may be in the building plane. Additional bays must be offset at least two feet further back.~~

~~v. For any side-load garage orientation, a minimum of two windows of at least four square feet, each must be installed on the street-facing façade.~~

~~vi. Relationship of home and garage. The front façade of any home and the associated garage may be in the same building plane if a roofed porch integral to the architecture of the residence of at least four feet in width and eight feet in length is constructed along the front façade. If no porch is present, the garage plane must shift at least two feet in any dimension from the residential portion of the structure.~~

C. *Multi-family stacked units, including condominiums and apartments.* Applicants seeking to build multi-family units shall achieve a balance between repetition and variety in the architecture of these buildings. Each multi-family dwelling containing more than three dwelling units shall feature a variety of massing proportions, wall plane proportions, roof proportions and other characteristics. The following specific standards shall apply to multifamily stacked units, including condominiums and apartments:

1. *Individual building identity.* For all developments consisting 100 or more multi-family stacked dwelling units, a floor plan may be repeated; however, identical building facades must not be replicated more

than twice within the development. During the site plan approval process, the applicant shall illustrate how the development will comply with the requirements set forth in this section.

2. *Articulation.* The intent of this section is to require building design that achieves balanced and articulated building composition, a perceived intimate scale of buildings, and pedestrian interest. ~~Each multi-family dwelling or condominium shall be articulated with projections, recesses, covered doorways, balconies, box or bay windows and/or other similar features, dividing large facades and walls into human-scaled proportions. Each multi-family building shall feature walls that are articulated by a least three of any of the following elements within every 36-foot length of the facade~~façade.Buildings over 60' in width shall provide variety in segments less than or equal to 40'. Each segment shall vary by the type of dominant material, or by color, scale or orientation of that material and by at least two of the following:

   i. Recesses, projections or significant offsets in the wall plane;

   ii. Distinct individualized entrances;

   iii. ~~Chimneys that project from the wall plane~~ roof type, plane, or material;

   iv. Balconies ~~and/or other outdoor living space; or e. Bay or box windows.~~

   Window placement or scale.

   v. Height differentiation between buildings.

3. *Roofs.* Each multi-family building shall feature a combination of primary and secondary roofs. Primary pitched roofs shall be articulated by at least one of the following elements:

   i. Changes in plane and elevations;

   ii. Dormers, gables or clerestories;

   iii. Transitions to secondary roofs over entrances, garages, porches, or bay windows.

4. *Color.* For all developments, there shall be no more than two similarly colored structures placed next to each other along a street or major walkway.

5. *Garages.* ~~No street-facing facade shall contain more than four garage fronts. Resident garages or parking that is internal to the block is encouraged. Resident garages or parking that is internal to the development is encouraged~~Garages should be internal to the development and concealed from the right of way. ~~On-street parking should be made available for visitors.~~ When garages are visible from the public right of way or adacent property, the architecture should follow the design intent and quality of the primary structure.

   ~~i. *Articulation.* At a minimum, a vertical trim detail that subdivides the overall siding pattern shall be provided at intervals not to exceed two internal parking stalls (approximately 20 to 24 feet).~~

   ~~ii. *Rear Walls of Multi-Family Garages.* To add visual interest and avoid the effect of a long blank wall with no relation to human size, accessibility needs or internal divisions within the building, the following standards for minimum wall articulation shall apply:~~

      ~~(i) *Length.* Any garage located with its rear wall along the perimeter of a development and within 65 feet of a public right-of-way or the property line of the development site shall not exceed 55 feet in length. A minimum of seven feet of landscaping must be provided between any two such perimeter garages.~~

      ~~(ii) *Articulation.* No rear garage wall that faces a street or adjacent development shall exceed 30 feet in length without including at least one of the following in at least two locations:~~

         ~~a. change in wall plane of at least six inches,~~

         ~~b. change in material or masonry pattern,~~

~~c. change in roof plane,~~

~~d. windows,~~

~~e. doorways,~~

~~f. false door or window openings defined by frames, sills and lintels, and/or~~

~~g. an equivalent vertical element that subdivides the wall into proportions related to human scale and/or the internal divisions within the building.~~

(Ord. No. 1252 , § 1(Exh.), 9-25-2018; Ord. No. 1276 , § 1(Exh.), 10-8-2019)

2. *CD Conservation District.* The Conservation District (CD) is intended to provide for primarily low-density housing types and large areas of conservation.

a. Street Patterns and Pedestrian and Bicycle Connectivity.

i. *Land Pattern:* Development should occur in a rural style, including larger lot sizes, sizeable setbacks, and expansive areas dedicated to conservation. Dead end streets and cul-de-sacs are discouraged in favor of looping and connected street patterns. Conservation subdivisions should follow conservation design development concepts, where a significant portion of the property is permanently protected as open space and a small percentage is developed for low density residential lots that are placed to minimize impacts to environmental resources.

ii. *Arterial and Collector Streets:* All arterial and collector streets shall be built to the Town of Berthoud's standards. Conservation District subdivisions should have direct access to these roadways via a local road and all residential lots should have a substantial buffer. No lots should have a direct access to an arterial or collector street.

iii. *Local Streets:* Streets are intended to be rural in nature, characterized by borrow ditches and no curb and gutter or sidewalks. Street trees and streetlights will not be required.

iv. *Bicycle and Pedestrian Connectivity:* Painted bike lanes or shared bike lanes are required on local streets. Bike racks should be provided where public or private amenities (Subdivision Identity, Open Space Elements, or Parks) are provided. Crusher fines off-street trails as transportation or leisure routes are heavily encouraged. Trails identified in the current Trails Master Plan are required to be constructed along with the development.

c. Site Design.

i. *Lot Size and General Layout.* Even within the development cluster, the highest priority for site layout shall be the preservation of environmentally sensitive areas and agricultural uses. The location of home sites and the corresponding layout of lots and streets shall have a lower priority and shall be designed to create a compact development pattern. No minimum lot size is required in the development cluster, except for those developments and lots that use on-lot septic systems or wells where the minimum lot size is two acres (87,120 square feet).

ii. Site layout shall be oriented to:

1. Achieving the best possible relationship between development and features of the land;

2. Minimizing alteration of the natural site features and topography;

3. Relationship to surrounding properties;

4. Improving the view from and the view of buildings; and

5. Reducing the area devoted to roads and utilities.

iii. Flexibility in lot size is encouraged to:

1. Promote a design that is sensitive to the natural environment;

2. Adapt to the natural topography of the site;

3. Accommodate the mix of residential land uses and housing types proposed within the development;

4. Design for compatibility with agricultural uses and other existing and allowed uses.

5. To the extent practical, home sites should be located to enhance visual access to residual land both from the proposed development and from adjacent lands.

iv. *Residual Lands.*

1. Residual land in conservation developments shall be designed to achieve the maximum contiguous amount of open space possible while avoiding the creation of small, isolated, and unusable areas.

2. Roads, pedestrian walkways, and trails may connect through the residual land.

3. Where practical, residual land should be located contiguous to and be connected with other residual land on the site or residual land adjacent to the conservation development boundaries. Connectivity is based on visual connections for residents of the development and, where applicable, physical connections for wildlife habitat.

4. Residual land may include such uses as pedestrian and bicycle areas, buffer areas and common area devoted exclusively to the use of the residents of the conservation development and their guests.

5. Residual land areas containing environmentally sensitive areas or features can not contain any structure or improvements, except walkways or trails, provided such areas are determined to be appropriate for walkways or trails and they can be constructed with minimal disturbance to environmentally sensitive areas.

6. Residual land areas shall not include road rights-of-way or parking areas, except in projects with a ratio of 20 percent developed area to 80 percent residual land, the road right-of-way, up to 70 feet in width, may be included in the calculation of the required residual land.

7. Uses in residual land are limited to such uses, accessory structures, and improvements necessary for agricultural uses or for the educational, cultural, recreational, or social enjoyment of the residents of the conservation development and their guests, and any utility services, including community sewer systems, providing the coverage of all structures and improvements in the residual land does not exceed five percent of the residual land.

8. All residual land not developed as part of the conservation easement must be held or dedicated as a perpetual conservation easement, or as open space to the Town of Berthoud.

9. Residential conservation tracts shall not subdivided.

d. *Design Requirements.*

1. Structures shall be sited to optimize the shape and configuration of farmable parcels and fields. Fragmented farmland and wildlife habitat shall be avoided to the maximum extent practicable.

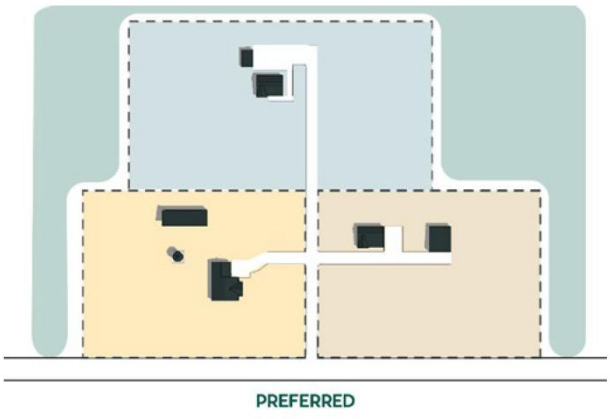
2. Structures shall be located at the edges of farmland to allow the creation of cohesive farm fields.

3. New structures or development shall be located at the edge of existing developed areas in compact configurations. Where possible, development should be located at the edge of farmland or natural features such as a ridgeline, tree stand, bluff, or stream.

4. Fence rows shall be used where practicable to define productive parcels and developed areas.

5. Driveways shall be located along fencerows or other natural features that are not incorporated into farm fields. The distance and number of driveways shall be minimized to the maximum extent practicable. See Figure below.

Figure Driveway Site Design



e. *Multiple-lot residential development.*

1. Multi-lot conservation development shall be clustered in the form of a typical farmstead and served by a cul-de-sac road. See Figure regarding Cluster Development with Cul-de-Sac.

2. Developed land adjacent to farmland shall be minimized to prevent the loss of farmland.

3. Development shall be designed and sited to minimize the perimeter of developed areas adjacent to farmland.

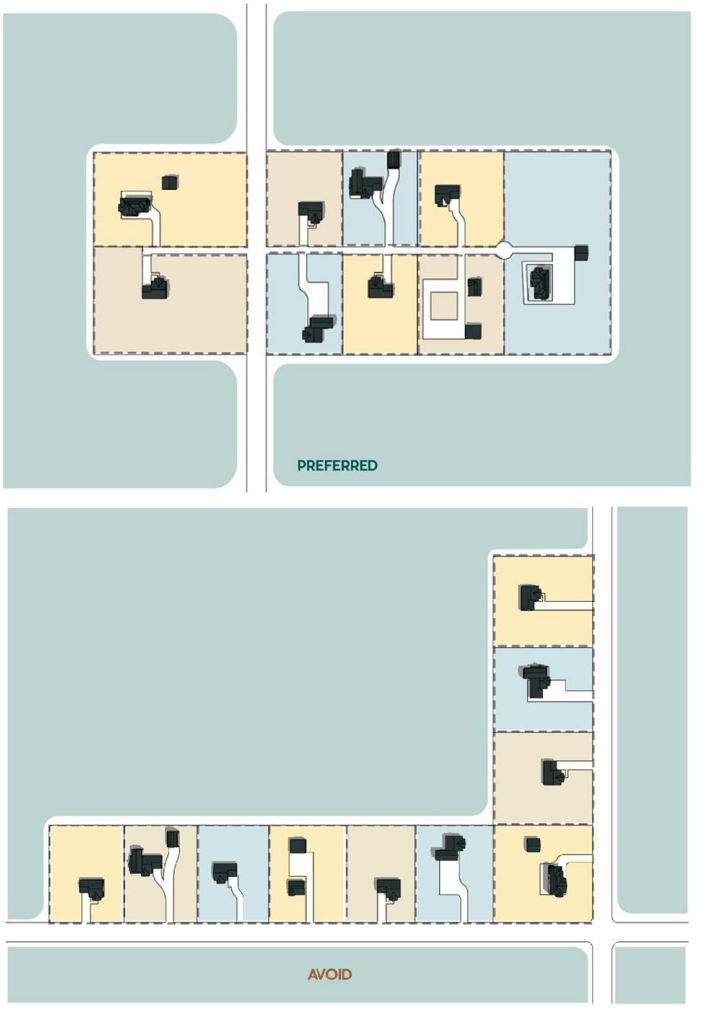
4. Large, isolated lots shall be avoided to the maximum extent practicable.

5. Development Sited Away from Roadway: Homes and outbuildings shall be set back from the road and shall not be designed to line the roadway with structures and driveways as shown in the figure below.

Figure Development Sited Away from Roadway



Figure Cluster Development with Cul-de-Sac



f. *Building Envelopes.*

1. In lieu of setbacks, building envelopes may be designated for each lot to identify the area where all buildings shall be constructed and to provide adequate separation between buildings and uses or activities.

2. Building envelopes shall be designed to avoid hazard areas, the tops of ridgelines or slopes, view corridors, open fields, sensitive environmental areas, and agricultural infrastructure.

3. To the maximum extent feasible, all building envelopes shall be located at least one-quarter mile (1,320 feet) from the edge of the Interstate 25 or Highway 287 right-of-way.

4. The placement of buildings within building envelopes along the street frontage should be varied to minimize uniformity.

5. If building envelopes are used, agricultural buildings may be located outside the building envelope on the residual lot if specified as part of an approved development. Applicable base zoning district setbacks shall still be applicable.

6. A building envelope may be used to limit the location of various types of structures. When so used, the types of structures limited to the building envelope shall be clearly stated as part of an approved development with the implication that all other types of structures may be located outside the building envelope

g. *Buffering.*

1. Perimeter buffering of a development cluster is required to minimize visual and noise impacts where adjacent land uses are of a different type (e.g., residential adjacent to commercial or industrial) or are of a substantially different residential density; or where the cluster is adjacent to a county road, state or federal highway or a railroad.

2. Where the proposed cluster abuts an existing or approved residential, mixed-use, or commercial development, the buffer shall be at least equal to the required rear yard depth of the adjacent lots. Where the proposed cluster abuts a county road, state or federal highway or a railroad, the buffer is measured from the edge of the existing right-of-way and shall be of a width and design to reduce visual and noise impacts from the road, highway, or railroad.

3. Buffering may be accomplished through the use of increased separation between land uses and/or by using native or drought resistant vegetation, fencing, walls, or a combination of these measures.

4. The traditional concept of using windbreak plantings around a farmstead may be desirable for the design of buffering between a cluster and agricultural uses.

h. *Fencing.*

1. Privacy fencing may be used in conservation developments when the backs of lots are adjacent to a county road or state highway, or on individual lots to provide privacy or enclosure for the lot or a portion of the lot. Such privacy fencing shall be constructed of wood.

2. Fencing should be designed to conform to the topography and be of a color that blends with the natural environment.

3. Plastic and fiberglass fencing is prohibited

30-62-1167 Mixed Use Commercial and industrial standards

A. *Intent*. The Town has distinctly different downtown, commercial and industrial types of development contemplated within the community. . In addition to the requirements of this section, applicants will be required to follow *the Town of Berthoud Architectural Design Guidelines* specific to the place type assigned to the property.

B. *General provisions for commercial and industrial proposals*.

1. *Connections*. Commercial developments must be linked with surrounding areas by extending Town streets, sidewalks, and/or paths directly into and through the development, thereby providing convenient, direct pedestrian, bicycle and vehicle access to and from all sides of the development.

2. *Accessibility*. Developments must be accessible to pedestrians and bicyclists as well as motorists and the emphasis must not be placed solely on parking and drive-thru functions. Site plans shall equally emphasize the following:

a. pedestrian access to the site and buildings;

b. gathering areas for people; and

c. auto access and parking lots.

3. *Walkways*. Walkways must be located and aligned to directly and continuously connect areas or points of pedestrian origin and destination, and not be located and aligned solely based on the outline of a parking lot configuration that does not provide such direct pedestrian access.

4. *On-street parking*. Streets and other elements of the site plan shall be designed so that on-street parking is a functional part of the development (except along arterial streets, or within the exempt Downtown parking areas as defined in Section 30-2-106).

5. *Building orientation*. Buildings in the C1, and R-4 Zone District shall be at the front property/built-to line as required in Section 30-2-117 C).; buildings within the R-4 Mixed-Use district are strongly encouraged to place the building and facades at the front property line, to form a continuous street façade. Building setbacks from local and collector streets should be minimized in order to establish a visually continuous, pedestrian-oriented street frontage.

6. *Wall articulation*.

   a. Walls shall not have an uninterrupted length exceeding 50 feet. Pilasters, texture transitions, windows, stepping of the wall plane, and/or landscaping accomplishing the same effect are required to satisfy this standard as specified in Section 30-2-117 C; Section 30-2-117 D; and Section 30-2-117 D.

   b. Blank wall or service area treatment of side and/or rear elevations visible from to the general public is not allowed unless the Community Development Director determines there are adequate building or landscape features to conceal the view of the blank wall.

   ~~c. All exterior elevations shall maintain the integrity of the adjacent dwellings architectural character and detailing.~~

   ~~d. Continuous cornice lines or eaves are encouraged between adjacent buildings.~~

   ~~e. Buildings with flat roofs shall provide a parapet with an articulated cornice.~~

7. *Facade treatment*. The architectural treatment of the front facade shall be continued, in its major features, around all visibly exposed sides of a building visible from adjacent residential and commercial zoned districts. Blank walls at side and/or rear elevations visible to the general public are prohibited adjacent to any residential or commercial zoned district.

8. *Windows*. Windows shall be vertically proportioned wherever possible.

9. *Awnings*. Fixed or retractable awnings are permitted. Canvas is the preferred material, although other water proofed fabrics may be used; metal, wood or aluminum awnings shall not be used unless otherwise approved by the Board.

10. *Screening of HVAC*: All air conditioning units, HVAC systems, exhaust pipes or stacks, elevator housing and satellite dishes, other telecommunications receiving devices and any other apparatus placed on the roof of a building shall be thoroughly screened from view from the public right-of-way and from adjacent properties by using walls, fencing, roof elements, and landscaping. In addition, all trash facilities, loading and parking areas shall be screened from public view by landscaping, building elements or approved fencing.

11. *Containers*. Storage Containers as defined herein shall not be located on any industrial or commercial property in a permanent manner, or for longer than a six month basis.

C. *C1~~, Limited Commercial District, Traditional Neighborhood~~ C2 and R-4 Mixed Use District ~~architectural~~ design standards*. With respect to the Downtown business district (C1 zone), ~~Traditional Neighborhood~~, and the Mixed-use (R-4) District these buildings have established a pattern of downtown development where buildings are located close to the sidewalk and form a generally continuous street facade. Pedestrian movement is the primary focus. Building height, architectural details, front setbacks, parking location, wall

articulation, and sidewalks establish the architectural edges that define this area as a walkable commercial corridor. ~~Buildings in the Traditional Neighborhood District, and Mixed-Use (R-4) District are encouraged to follow the aforementioned architectural standards where appropriate.~~ In addition to the requirements of this section, applicants will be required to follow *the Town of Berthoud Architectural Design Guidelines* specific to the place type assigned to the property.

b. *Street Patterns and Pedestrian and Bicycle Connectivity.*

i. *Land Pattern:* Development should occur in a "New Urbanist" style, including gridded street patterns, shorter blocks, and alley-loaded products. Dead end streets and cul-de-sacs should be avoided at all costs. Mixed-Use buildings are encouraged throughout the neighborhood, especially at street corners or along busier roadways.

ii. *Arterial and Collector Streets:* All arterial and collector streets shall be built to the Town of Berthoud's standards. These road types should be concentrated on the periphery of Urban Residential developments and should rarely provide direct access to individual lots.

iii. *Local Streets:* All streets must provide seven-foot detached tree lawns and minimum four-feet wide sidewalks along both sides of each road. Sidewalks shall be interconnected throughout, and provide natural connections to any nearby trails, parks, or open spaces. Painted bike lanes or shared bike lanes are encouraged on local streets.

iv. *Bicycle Connectivity:* Painted bike lanes or shared bike lanes are encouraged on local streets. Bike racks should be provided where public or private amenities (Subdivision Identity, Open Space Elements, or Parks) are provided. Off-street trails as transportation routes are heavily encouraged.

v. *Pedestrian Connectivity:* The size of buildings, street blocks, and amenities should be built to a pedestrian scale. Pedestrian street crossings should be plentiful, allowing for pedestrians to cross at natural locations. Off-street trails as transportation routes are heavily encouraged.

c. *Site Design*

i. *Layout:* Sites should be designed in a "New Urbanist" style with buildings built close to the sidewalk at a pedestrian scale.

ii. *Parking:* For buildings that include commercial and multi-family units, off-street parking should be located in the rear or interior of the building footprint. For single-family buildings access to the driveway and garage should come from the rear alley or side street.

iii. *Design:* All sides of a building that front a street should be activated architecturally. Corner buildings' side yards should continue the elements found in the front yard. This includes the building façade materials, architectural features, landscaping, etc.

iv. *Ground Floor Residential Uses:* Where present, ground floor residential uses fronting a public street or walkway should be separated from the street by landscaping, steps, porches, grade changes, and low ornamental fences/walls.

~~1. *Setbacks*. Building facades shall abut or be placed at the front property line in all C-1 zones, and are recommended to abut the front property line in all Traditional Neighborhood District and Mixed-use (R-4) zones. Building facades may be recessed if an arcade or similar structure abuts the front setback. Architectural projections including cornices, balconies, canopies and entry features may encroach into public rights-of-way, subject to permits as required.~~

2. *Pedestrian scale*. The establishment of buildings on isolated "pad sites" surrounded by parking lots and driveways, and that offer mainly auto-oriented signage to define entrances, are not allowed in the C1 Zone District and are not encouraged in the Mixed Use (R-4) district and the Traditional Neighborhood District.

3. *Multi-story, mixed-use structures*. Commercial uses shall be contained in multi-story (two to three stories) mixed-use structures with commercial/retail uses on the ground level and above and/or apartment dwellings or offices on the upper levels. Such building shall vary in terms of footprint and architectural elevations.

4. *Facade treatments*. Large buildings shall be designed to resemble the character and scale of the original downtown buildings with entries, windows, awnings, and canopies used to build upon the original style of downtown buildings.

5. *Building Material Standards.*

i. No portion of a building shall be treated with smooth-faced concrete block, tilt-up concrete panels or prefabricated steel panels, unless the visible finish is comprised of a suitable finish material. Suitable finish material for treating visible facades may include, but are not limited to, brick, glass, masonry, stone, or stucco;

ii. The rear and side facades shall be of materials and design characteristics consistent with that of the front; use of inferior or lesser quality materials for rear or side facades shall be prohibited.

6. *Entries*. Transparent entries and large store front windows are strongly encouraged. Recessed and other styles of window openings are desired.

7. *Location of parking lots*. Parking shall be provided to the greatest extent possible at the rear or sides of the building.

Figure 1: Example of Suburban Development Pattern Not Permitted in this District

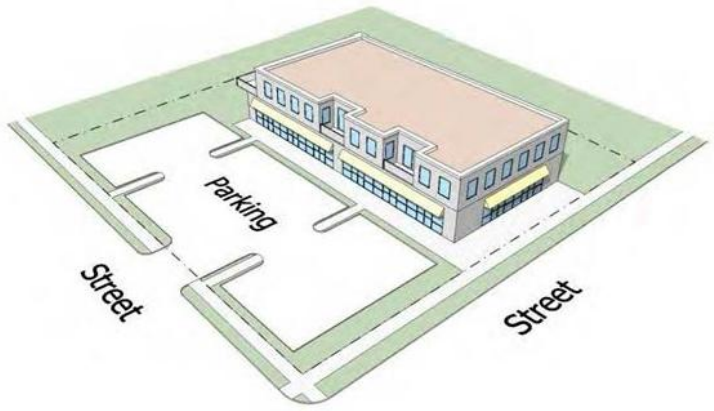


Figure 2: Example of Urban Development Pattern, Required by this District



~~8. *Windows*. Street-level storefront windows are strongly encouraged.~~

~~9. *Screening*. Commercial activities including loading areas and docks shall not abut a residential area unless the activities and related storage are contained within a building or otherwise adequately screened from view from the residential area.~~

D. *C2: General Commercial District architectural standards*. The C2 zone commercial district has been created to provide for the larger commercial uses that may not be appropriate in the original downtown (Mountain Ave.) area of Berthoud. In addition to the requirements of this section, applicants will be required to follow *the Town of Berthoud Architectural Design Guidelines* specific to the place type assigned to the property.

1. *Design of developments with internal orientation*. In multiple-building developments, where setbacks are increased to accommodate independent development with internal orientation, primary building entrances shall face walkways, plazas, or courtyards that have direct, continuous linkage to the street. However, it may be necessary for such direct pedestrian access ways to cross drive aisles. Driveway crossings must place priority on the pedestrian access.

2. *Connections*. Where it is not possible or appropriate to extend a town street or sidewalk directly into development or bring the building up to a town sidewalk, buildings shall create direct connections to adjacent land uses.

~~3. *Requirement for four-sided design*. A building's special architectural features and treatments shall not be restricted to a single facade. All sides of a building open to view by the public, whether viewed from public or private property shall have level of quality and architectural interest that makes them compatible with adjacent land uses. Landscaping may be used along side or rear facades to meet this requirement.~~

~~4. *Building form*. The design of all buildings shall avoid monolithic shapes.~~

~~5. *Design*: The design of all buildings shall employ textured surfaces, projections, recesses, shadow lines, color, window patterns, overhangs, reveals, changes in parapet heights, and similar architectural features to avoid monolithic shapes and surfaces and to emphasize building entries. Buildings shall not contain unbroken flat walls of 50 feet or greater in length. Buildings having single walls exceeding 50 feet in length shall incorporate one or more of the following for every 50 feet:~~

~~i. Changes in color, graphic patterning, changes in texture, or changes in material;~~

~~ii. Pilasters;~~

~~iii. Projections, recesses and reveals;~~

~~iv. Windows and fenestration;~~

~~v. Arcades and pergolas;~~

~~vi. Towers;~~

~~vii. Gable projections;~~

~~viii. Horizontal/vertical breaks;~~

~~6. *Building Material Standards:*~~

~~i. No portion of a building shall be treated with smooth-faced concrete block, tilt-up concrete panels or prefabricated steel panels, unless the visible finish is comprised of a suitable finish material. Suitable finish material for treating visible facades may include, but are not limited to, brick, glass, masonry, stone, or stucco;~~

~~ii. The rear and side facades shall be of materials and design characteristics consistent with that of the front; use of inferior or lesser quality materials for rear or side facades shall be prohibited.~~

~~7. *Exterior building materials and colors*. Intense, bright or fluorescent colors shall not be used as the predominant color on any wall or roof of any primary or accessory structure. These colors may be used as building accent colors.~~

~~8. *Orientation of pedestrian entries*. Building entry features shall be oriented so that pedestrian entries face the nearest adjacent street, or connected to the nearest major street with a sidewalk.~~

9. *Setback Requirements*: In the case of large buildings for employment, storage or auto-related uses, where greater setbacks are needed, a minimum of 30 percent of the building shall be brought forward to the front/street facing setback line. If a minimized setback is not maintained, the larger setback area shall have landscaping, low walls or fencing, a tree canopy and/or other site improvements along the sidewalk designed for pedestrian interest, scale and comfort.

10. *Location of parking lots*. Parking shall be provided to the greatest extent possible by spaces at the rear or sides of the building. If parking must be placed in the front, the front parking area shall have additional landscaping, low walls, an expanded tree lawn and canopy, and/or other site improvements along the sidewalk designed for pedestrian interest, scale and comfort.

~~11. *Roof materials*. All sloping roof areas visible from any public or private right-of-way, shall be surfaced with attractive and durable materials.~~

12. *Screening*.

    i. Screening will be required for commercial activities including loading areas and docks that abut a residential area unless the activities and related storage are contained within a building or otherwise adequately screened from view from the residential area.

    ii. A minimum 15 foot deep landscaped yard shall be provided along all arterial streets, and along any district boundary line that does not adjoin a residential land use. If a district boundary line abuts upon or is within a street right-of-way, then the required landscaped yard shall commence at the street right-of-way line on the district side of the street, rather than at the district boundary line.

13. *Storage and Operational Areas*.

    i. Storage, loading and work operations shall be screened from view along all district boundary lines and along all public streets.

    ii. Within internal district areas, buildings may be surrounded by paving for vehicle use. To the extent reasonably feasible, side and rear yards in interior block locations shall be used for vehicle operations and storage areas, and front yards shall be used for less intensive automobile parking.

At district edges, side yards shall be used for vehicle operations and storage areas, in order to allow for a finished, attractive rear building wall and a landscaped rear yard.

14. *Gas pumps.* No gas pumps shall be located forward of the principal structure, or fronting any arterial or collector roadway.

E. *Industrial (M1 and M2) architectural design standards*.

1. *Intent*. Industrial architectural standards are intended to create attractive public frontages for these uses while supporting the more utilitarian aspects of modern industrial operations. In addition to the requirements of this section, applicants will be required to follow *the Town of Berthoud Architectural Design Guidelines* specific to the place type assigned to the property. ~~In addition, the following standards shall apply:~~

~~a. *Façade*. A building's special architectural features and treatments shall be featured on the front facade. Other sides of a building open to view by the public when viewed from public right-of-way may feature a lower level of architectural interest, features and treatments.~~

~~i. *Exterior building materials and colors*. Intense, bright or fluorescent colors shall not be used as the predominant color on any wall or roof of any primary or accessory structure (s). These colors may be used as building accent colors.~~

~~ii. *Entries*. Entries should incorporate overhangs, recessed openings, canopies or other features to emphasize the entrance area. Utility doors, fire system standpipes and valves, loading docks, etc. should be concealed or blended in with the architectural design.~~

~~b. *Building massing and form*:~~

~~i. Site components such as structures, parking areas, driveways, and outdoor functions should be arranged and located to emphasize the aesthetically pleasant components of the site such as existing mature trees and mountain views, or superior architectural features. New buildings should be oriented toward the adjoining public streets, so that public entrances are a focal point on the building and site layout.~~

~~ii. Industrial development should be designed in a manner that fits in with the surrounding development pattern and context. This refers to: the spatial relationship between structures and the public right-of-way; circulation patterns; existing vegetation and topography; the architectural elements in surrounding development; and the size and form of new structures in relationship to existing development. For instance, where new buildings and uses are similar to those on adjoining sites, the design should reflect similar setbacks, building heights and form, scale and mass, materials, compatible colors and landscape treatments. The intent is not uniformity, but compatibility.~~

~~iii. Freestanding outbuildings should use forms, shapes and materials that are consistent with the main structure.~~

c. *Screening*.

i. Screening will be required for Industrial activities and shipping areas/docks that abut a residential area unless the activities and related storage are contained within a building or otherwise adequately screened from view from the residential area.

ii. A minimum 25 foot deep landscaped yard shall be provided along all arterial streets, and along any district boundary line that does not adjoin a residential land use. If a district boundary line abuts upon or is within a street right-of-way, then the required landscaped yard shall commence at the street right-of-way line on the district side of the street, rather than at the district boundary line.

iii. A minimum 80-foot deep landscaped yard shall be provided along any boundary line that adjoins a residential land use or a zone district (whether within or beyond the City's

jurisdictional boundary) that is predominately characterized by residential uses as permitted uses. This residential buffer yard may be reduced to 25 feet if the adjoining residential land use or zone district (whether within or beyond the Town's jurisdictional boundary) is separated by a public street.

d. *Storage and Operational Areas*.

i. Storage, loading and work operations shall be screened from view along all district boundary lines and along all public streets.

ii. Within internal district areas, buildings may be surrounded by paving for vehicle use. To the extent reasonably feasible, side and rear yards in interior block locations shall be used for vehicle operations and storage areas, and front yards shall be used for less intensive automobile parking. At district edges, side yards shall be used for vehicle operations and storage areas, in order to allow for a finished, attractive rear building wall and a landscaped rear yard.

30-6-1175 Commercial and Industrial buffering and screening techniques

A. *Intent*. To integrate adjacent land uses and provide seamless transitions from one use to another through the use of building orientation and access, landscaping, appropriate architectural elements, and non-buildable buffer areas.

B. *General provisions*.

1. Special consideration shall be given to adjacent land uses of different intensities. It shall be the responsibility of the developer of the more intensive use to ensure that the transition from one use to another is attractive, functional and minimizes conflicts between the current and planned uses.
2. It is the responsibility of the developer of the higher intensity use to demonstrate that the uses will be compatible. This can be accomplished through the effective use of shared access and parking, appropriate building orientation and setbacks, landscaping, architectural treatment, buffer areas, and limited use of fencing and screening walls. Special consideration shall be given to the impact of aesthetics, noise, lighting and traffic.
3. Buffering of up to 100 feet of non-buildable area may be required between any development and adjacent or different uses. A minimum of 150 feet of non-buildable area may be required between any development and adjacent natural or environmentally sensitive areas. The actual amount of any buffer area will be determined on a site-specific basis by the Community Development Director or the Town Administrator.

C. *Location and screening of required loading and service areas*.

1. Loading docks, solid waste facilities, recycling facilities, storage areas and other service areas shall be placed to the rear or side of buildings in visually unobtrusive locations.
2. Screening, buffering and landscaping shall be incorporated to prevent direct views of the loading, storage, and service areas and their driveways from adjacent residential or commercial zoned districts or from the public right-of-way. Screening and landscaping shall also prevent spill-over glare, noise, or exhaust fumes. Screening and buffering shall be achieved through walls, architectural features, and landscaping, and shall be visually impervious. Recesses in the building or depressed access ramps may be used.

D. *Screening of roof elements*.

1. All air conditioning units, HVAC systems, exhaust pipes or stacks, elevator housing and satellite dishes, other telecommunications receiving devices and any other apparatus placed on the roof of a building shall be thoroughly screened from view from the public right-of-way and from adjacent properties by using walls, fencing, roof elements including pipe chases, and landscaping.

E. *Trash dumpsters and recycling stations*.

1. Every development that is required to provide one or more dumpsters for solid waste collection shall provide sites for such dumpsters that are:
   a. Located to facilitate collection and minimize any negative impact on persons occupying the development site, neighboring properties, or public rights-of-way; and

b. Constructed to allow for collection without damage to the development site or the collection vehicle.
c. Provide an area for recycling as well as disposal of solid waste.

2. All such dumpsters shall be screened to prevent them from being generally visible to:
   a. Persons located within any dwelling unit on residential property other than that where the dumpster is located;
   b. Occupants, customers, or other invitees located within any building on nonresidential property oth er than that where the dumpster is located; and
   c. Persons traveling on any public street, sidewalk or other public way.

30-2-118 Outdoor lighting and dark sky standards

A. *Intent.* The purpose of this ordinance is to provide regulations for outdoor lighting that will:

1. Permit the use of outdoor lighting that does not exceed the levels specified in International Engineering Society (IES) recommended practices for night-time safety, utility, security, productivity, enjoyment and commerce.

2. Minimize adverse offsite impacts of lighting such as light trespass, and obtrusive light.

3. Curtail light pollution, reduce skyglow and improve the nighttime environment for astronomy, intended to support the continued use, enjoyment and success of Berthoud's Little Thompson Observatory and Bunyan Observatory at the Pioneer Museum and their operations.

4. Help protect the natural environment from the adverse effects of night lighting from gas and oil extraction activities or electric services.

5. Conserve energy and resources to the greatest extent possible.

6. These standards should result in exterior lighting that is functional, aesthetically pleasing, and complimentary to the architectural style of buildings or setting.

B. *Definitions.* For the purposes of this Section, the following definitions shall apply:

Absolute Photometry: Photometric measurements (usually of a solid-state luminarie) that directly measures the footprint of the luminarie. Reference Standard IES LM-79.

Architectural Lighting: Lighting designed to reveal architectural beauty, shape and/or form and for which lighting for any other purpose is incidental.

Authority: The Town of Berthoud.

Astronomic Time Switch: An automatic lighting control device that switches outdoor lighting relative to time of solar day with time of year correction.

Backlight: For an exterior luminaire, lumens emitted in the quarter sphere below horizontal and in the opposite direction of the intended orientation of the luminaire. For luminaires with symmetric distribution, backlight will be the same as front light.

BUG: The acronym, "BUG" (Backlight, Uplight, and Glare) was developed by the Illuminating Engineering Society (IES) and the International Dark Sky Association in order to calculate the light escaping in unwanted directions from an outdoor light fixture...Forward light (Glare), Backlight, and Uplight.

Canopy: A covered, unconditional structure with at least one side open for pedestrian and/or vehicular access. An unconditioned structure is one that may be open to the elements and has no heat or air conditioning.

Common Outdoor Areas: One or more of the following: a parking lot, a parking structure or covered vehicular entrance; a common entrance or public space shared by all occupants of the domiciles.

Curfew: A time defined by the authority when outdoor lighting is reduced or extinguished.*Emergency conditions:* Generally, lighting that is only energized during an emergency; lighting fed from a backup power

~~source; or lighting for illuminating the path of egress solely during a fire or other emergency situation; or, lighting for security purposes used solely during an alarm.~~

~~*Footcandle:* The unit of measure expressing the quantity of light received on a surface. One foot-candle is the illuminance produced by a candle on a surface one square foot from a distance of one foot.~~

~~*Forward light:* For an exterior luminaire, lumens emitted in the quarter sphere below horizontal and in the direction of the intended orientation of the luminaire.~~

~~*Fully shielded luminaire:* A luminaire constructed and installed in such a matter that all light emitted by the luminaire, either directly from the lamp or a diffusing element, or indirectly by reflection or refraction from any part of the luminaire, is projected below the horizontal plane through the luminaire's lowest light-emitting part.~~

~~*Glare:* Lighting entering the eye directly from luminaires or indirectly from reflective surfaces that causes visual discomfort or reduced visibility.~~

~~*Hardscape:* Permanent hardscape improvements to the site including parking lots, drives, entrances, curbs, ramps, stairs, steps, medians, walkways and non-vegetated landscaping that is ten (10) feet or less in width. Materials may include concrete, asphalt, stone, gravel, or other material approved by the Town through the site-specific land development process or through another approval process.~~

~~*Hardscape Area:* The area measured in square feet of all hard-scape. It is used to calculate the Total Site Lumen Limit in both the Prescriptive Method and Performance Methods. Refer to Hardscape definition.~~

~~*Hardscape Perimeter:* The perimeter measured in linear feet is used to calculate the Total Site Lumen Limit in the Performance Method. Refer to Hardscape definition.~~

~~*IDA:* International Dark Sky Association.~~

~~*IESNA:* Illuminating Engineering Society of North America.~~

~~*Impervious Material:* Sealed to severely restrict water entry and movement.~~

~~*Industry Standard Lighting Software:* Lighting software that calculates point-by-point illuminance that includes reflected light using either ray-tracing or radiosity materials.~~

~~*Lamp:* A generic term for a source of optical radiation (i.e. light) often called a "bulb" or "tube". Examples include incandescent, fluorescent, high-intensity discharge (HID) lamps, and low-pressure sodium lamps, as well light-emitting diodes (LED) modules and arrays.~~

~~*Landscape lighting:* Lighting of trees, shrubs, or other plant material, as well as ponds and other landscape features.~~

~~*LED:* Light Emitting Diode.~~

~~*Light Pollution:* Any adverse effect of artificial light including, but not limited to, glare, light trespass, sky-glow, energy waste, compromised safety and security, and impacts on the nocturnal environment.~~

~~*Light trespass:* Light that falls beyond the property it is intended to illuminate.~~

~~*Lighting:* "Electric" or "man-made" or "artificial" lighting. See the definition of Lighting Equipment.~~

~~*Lighting Equipment:* Equipment specifically intended to provide gas or electric illumination, including but not limited to, lamp(s), luminaire(s), ballast(s), poles, posts, lens(s), and related structures, electrical wiring, and other necessary or auxiliary components.~~

~~*Lighting Zone:* An overlay zoning system establishing legal limits for lighting for particular parcels, areas, or districts in a community.*Low voltage landscape lighting:* Landscape lighting powered at less than 24 volts and limited to luminaires having an initial lumen output of 525 lumens or less.~~

~~*Lumen:* the unit of measurement used to quantify the amount of light produced by a lamp or emitted from a luminaire (as distinct from a "watt" a measure of power consumption).~~

~~*Luminaire:* The complete lighting unit (fixture), consisting of a lamp, or lamps and ballast(s), together with the parts designed to distribute the light (reflector, lens, diffuser) to position and connect the lamps to the power supply.~~

~~*Luminaire Lumens:* For luminaires with relative photometry per IES, it is calculated as the sum of the initial lamp lumens for all lamps within an individual luminaire, multiplied by the luminaire efficiency. If the efficiency is not known for a residential luminaire, assume 70%. For luminaires with absolute photometry per IEM LM-70, it is the total luminaire lumens. The lumen rating of a luminaire assumes the lamp or luminaire is new and has not depreciated in light output.~~

~~*Lux:* The SI unit of illuminance. One (1) Lux is one (1) lumen per square meter. One (1) Lux is a unit of incident illuminance approximately equal to 1/10 footcandle.~~

~~*Mounting height:* The height of the photometric center of a luminaire above grade level. The horizontal spacing of poles is often measured in units of Mounting height. For example, "The luminaires can be spaced up to four (4) mounting heights apart."~~

~~*New Lighting:* Lighting for areas not previously illuminated; newly installed lighting of any type except for replacement lighting or lighting repairs.~~

~~*Object:* A permanent structure located on a site. Objects may include statues or artwork, garages or canopies, outbuilding, etc.~~

~~*Object height*: The highest point of an entity but shall not include antennas or similar structures.~~

~~*Ornamental lighting*: Lighting that does not impact the function and safety of an area but is purely decorative, or used to illuminate architecture and/or landscaping, and installed for aesthetic effect.~~

~~*Ornamental street lighting*: A luminaire intended for illuminating streets that serves a decorative function in addition to providing optics that effectively deliver street lighting. It has a historical period appearance or decorative appearance, and has the following design characteristics:~~

~~uu. Designed to mount on a pole using an arm, pendant, or vertical tenon;~~

~~vv. Opaque or translucent top and/or sides;~~

~~ww. An optical aperture that is either open or enclosed with a flat, sag or drop lens;~~

~~xx. Mounted in a fixed position; and~~

~~yy. With its photometric output measured using Type C photometry per IESNA LM-75-01.~~

~~*Outdoor lighting:* Lighting equipment installed within the property line and outside the building envelopes, whether attached to poles, building structures, the earth, or any other location; and any associated lighting control equipment.~~

~~*Partially shielded luminaire*: A luminaire with opaque top and translucent or perforated sides, designed to emit most light downward.~~

~~*Pedestrian hardscape*: Stone, brick, concrete, asphalt or other similar finished surfaces intended primarily for walking, such as sidewalks and pathways.~~

~~*Photoelectric switch*: A control device employing a photocell or photodiode to detect daylight and automatically switch lights off when sufficient daylight is available.~~

~~*Property line*: The edges of the legally defined extent of privately-owned property.~~

~~*Relative photometry:* Photometric measurements made of the lamp plus luminaire and adjusted to allow for light loss due to reflection or absorption within the luminaire. Reference standard: IES LM-63.~~

~~*Repairs:* The reconstruction or renewal of any part of an existing luminaire for the purpose of its on-going operation, other than relamping or replacement of components including capacitor, ballast or photocell. Note that retrofitting a luminaire with new lamp and/or ballast technology is not considered a repair and for the purposes of~~

this Section the luminaire shall be treated as if new. The term, Repair does not include normal relamping or replacement of components including capacitor, ballast or photocell.

Replacement lighting: Lighting installed specifically to replace existing lighting that is sufficiently broken to be beyond repair.

Sales area: Uncovered area used for sales of retail goods and materials, including but not limited to automobiles, boats, tractors and other farm equipment, building supplies, and gardening and nursery products.

Seasonal lighting: Temporary lighting installed and operated in connection with holidays or traditions.

Shielded Directional Luminaire: A luminaire that includes an adjustable mounting device allowing aiming in any direction and contains a shield, louver, or baffle to reduce direct view of the lamp.

Sign: See term defined in the definition Section of Chapter 30.

Sky glow: The brightening of the nighttime sky that results from scattering and reflection of artificial light by moisture and dust particles in the atmosphere. Skyglow is caused by light directed or reflected upwards or sideways and reduces one's ability to view the night sky.

Temporary lighting: Lighting installed and operated for periods not to exceed sixty (60) days, completely removed and not operated again for at least thirty (30) days.

Third party: A party contracted to provide lighting, such as a utility company.

Time switch: An automatic lighting control device that switches lights according to time of day.

Translucent: Allowing light to pass through, diffusing it so that objects beyond cannot be seen clearly (not transparent or clear).

Unshielded Luminaire: A luminaire capable of emitting light in any direction including downwards.*Uplight:* For an exterior luminaire, flux radiated in the hemisphere above the horizontal plane.

Vertical illuminance: Illuminance measure or calculated in a plane perpendicular to the site boundary or property line.

C. *General Provisions.*

1. Evaluation of exterior lighting. Exterior lighting shall be evaluated in the development review process to ensure that the functional and security needs of the project are met in a way that does not adversely affect the adjacent properties or neighborhood. The degree to which exterior night lighting affects a property owner or neighborhood will be examined by considering the light source, level of illumination, hours of illumination, and need for illumination in relation to the effects of the lighting on the adjacent property owners and the neighborhood.

2. Light style. The style of lights shall be consistent with the style and character of architecture proposed on the site. Light fixtures that illuminate signage shall be compatible with the architecture of the building on which they are placed.

3. Concealed light source. Light sources shall be concealed or shielded to the maximum extent feasible to minimize the potential for glare or unnecessary diffusion on adjacent property. All lights shall be directed downward and the light source shall be equipped with "cut-off" devices so that they do not negatively impact any adjacent property and to ensure that ambient skyward light is eliminated.

4. Excessive illumination. Lighting within any lot that unnecessarily illuminates any other lot and substantially interferes with the use or enjoyment of such other lot is prohibited. Lighting unnecessarily illuminates another lot if it clearly exceeds the standards set forth in this Section, if the light shines directly into or toward a residence, or if the standards set forth in this Section could reasonably be achieved in a manner that would not substantially interfere with the use or enjoyment of neighboring properties.

D. *Applicability.*

1. The lighting standards of this Chapter shall be applicable to all exterior lighting within the Town. All exterior lighting installed after the effective date of this ordinance codified herein shall conform to the standards established by this Chapter. the effective date of Ordinance 1336 for Oil and Gas regulations shall conform to the standards established by this Chapter.

2. Exemptions:

i. Exemption for outdoor recreational uses. Because of their limited hours of operation and their unique requirements for nighttime visibility, ball diamonds, playing fields, tennis courts, and other similar outdoor recreational uses (both public and private, unless otherwise restricted by the Town) shall be exempt from the general provisions of this section. However, exterior lighting for such uses shall be extinguished no later than an hour after activity concludes.

ii. Full cutoff street lighting as part of a federal, state, or municipal installation.

iii. Holiday lighting before and after the holiday.

iv. Specialized lighting necessary for safety, such as temporary lighting associated with emergency operations, road hazard warnings, etc.

v. Traffic control signals and devices.

vi. Sensor activated luminaries, provided that:

a. It is located in such a manner as to prevent glare and lighting onto properties of others or into the public right-of-way.

b. The luminaire is set to only go on when activated by motion, and to go off within five minutes after activation has ceased.

c. The luminaire shall not be triggered by activity off the property.

vii. Floodlights with external shielding can be deflected up to 25 degrees from a vertical plane as measured through the central axis of the light beam from the luminaire, only if the luminaire does not cause glare or light to shine on adjacent property or public rights-of-way.

viii. Federally funded and state funded roadway construction projects are exempted from the requirements of this division only to the extent it is necessary to comply with federal and state requirements.

ix. Exterior Residential fixtures which consist of lamp types with an output of 800 lumens or less (approximate to a 60-watt incandescent bulb or nine-watt LED) are exempt from these regulations, provided the fixture types are compliant with those allowed in this Chapter.

x. Landscape Lighting: up-lighting for flags, address markers, trees, architectural features and low-voltage landscape lighting, provided that the luminaire is located, aimed and shielded so that direct illumination is focused exclusively on the object and away from adjoining properties and the public street right-of-way. Architectural features may be illuminated by up-lighting provided that the light is effectively contained by the structure. In all cases, up-lighting must not cause glare or light trespass. The landscape lighting must be low-voltage (24 volts or less), and it must be controlled by a photocell and timer set to extinguish no later than 12:00 a.m.

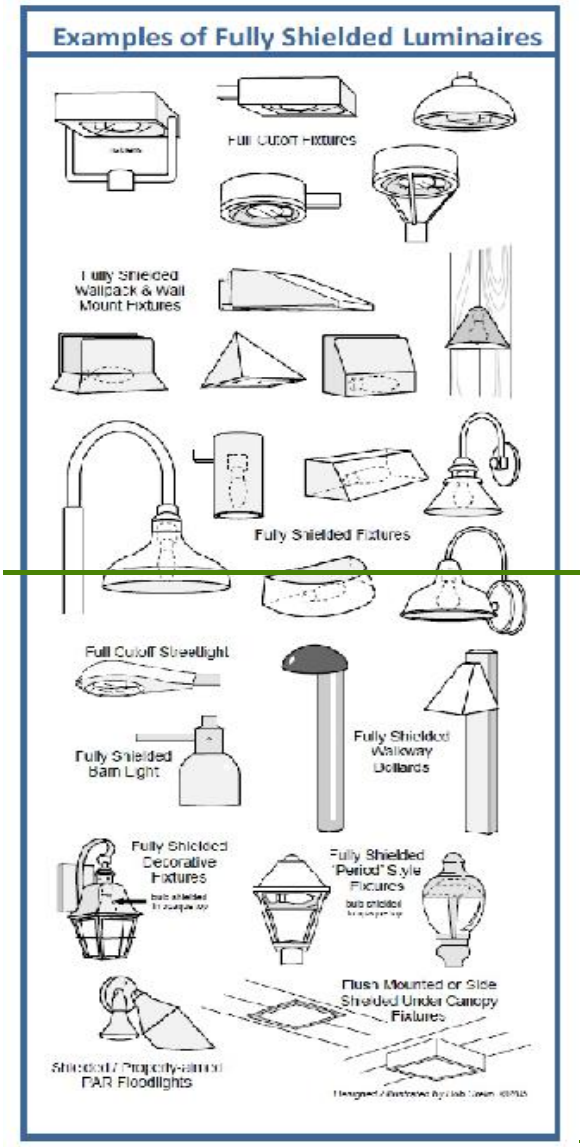
xi. Fossil fuel light produced directly or indirectly by the combustion of natural gas or other utility-type fossil fuels are exempt from these standards.

E. *Standards.*

1. *Area and Roadway Lights.*

i. All area lights, including street lights and parking area lighting, shall have a maximum BUG rating of B2-U0-G1 according to the guidelines set forth by the Illuminating Engineering Society (IES) TM15-11. Examples of these luminaires can be found in Diagram 30-1.

~~Diagram 30-1~~



2. ~~*Illumination Levels.* Illumination levels and uniformity shall be in accordance with currently recommended practices of the Illuminating Engineering Society (IES), which requires Kelvin temperatures that do not exceed 3,000 Kelvin, and those recommended standards shall not be exceeded.~~

3. ~~*Temporary Lighting.* Temporary lighting that conforms to the requirements of this Chapter shall be allowed. Nonconforming temporary exterior lighting will be permitted by the Town staff only after considering 1) the public and/or private benefits which will result from the temporary lighting; 2) any annoyance or safety problems that may result from the use of the temporary lighting; and, 3) the duration of the temporary nonconforming lighting. The applicant shall submit a detailed description of the proposed temporary nonconforming lighting to the Town for review and authorization.~~

4. ~~*Light Spillover.*~~

a. *Residential:* All outdoor lighting systems shall be designed and operated so that the area ten feet beyond the property line of the premises receives no more than one-quarter of a foot-candle of light from the premises lighting system.

b. *Commercial:* All outdoor lighting systems shall be designed and operated so that the area ten feet beyond the property line of the premises receives no more than one foot-candle in commercially zoned areas, and one quarter of a foot-candle for properties adjoining residential districts.

5. *Towers.* All radio, communication, and navigation towers that require lights shall have dual lighting capabilities. For daytime, the white strobe light will be used, and for nighttime, only red lights shall be used.

F. *Submittals.*

1. All applications for building permits or land use planning review which include installation of outdoor lighting fixtures shall include lighting plans conforming to the provisions of this Section. Town staff has the authority to request additional information in order to achieve the purposes and intent of this Section.

a. The submittal shall contain the following information and be submitted as part of the site plan to the Planning and Building departments for approval.

1. Plans indicating the location, type, intensity, and height of luminaries including both building and ground-mounted fixtures;

2. A description of the luminaries, including lamps, poles or other supports and shielding devices, which may be provided as catalogue illustrations from the manufacturer;

3. Photometric data, such as that furnished by the manufacturer, showing the angle of light emission and the foot-candles on the ground. Area and roadway lighting requires compliance with the BUG rating with this data; and

4. Additional information as may be required by the Town in order to determine compliance with this Chapter.

UUUUU.A. Preface.

1. **Authority.** On behalf of the Town of Berthoud, this outdoor lighting code is enacted on the effective date pursuant to, and in accordance with, the authority of the Town of Berthoud Town Board.

2. **Purpose.** This outdoor lighting code is intended to protect the health and welfare of all residents within the Town of Berthoud, enhance its [character and quality of life], prevent inappropriate and poorly installed outdoor lighting, reduce lighting conflicts between property owners, prevent the increase of potentially harmful sky glow, and preserve the naturally dark sky for the benefit of residents, visitors, wildlife, and the environment. The purpose of this ordinance is to provide regulations for outdoor lighting that will:

a. Permit the use of outdoor lighting that does not exceed the levels specified in International Engineering Society (IES) recommended practices for night-time safety, utility, security, productivity, enjoyment, and commerce.

b. Minimize adverse offsite impacts of lighting such as light trespass, and obtrusive light to ensure that the functional and security needs of the project are met in a way that does not adversely affect the adjacent properties or neighborhood.

c. Curtail light pollution, reduce sky glow and improve the nighttime environment for astronomy, intended to support the continued use, enjoyment, and success of Berthoud's Little Thompson Observatory and Bunyan Observatory at the Pioneer Museum and their operations.

d. Help protect the natural environment from the adverse effects of night lighting from gas and oil extraction activities or electric services.

e. Conserve energy and resources to the greatest extent possible.

f. These standards should result in exterior lighting that is functional, aesthetically pleasing, and complimentary to the architectural style of buildings or setting.

g. Light style. The style of lights shall be consistent with the style and character of architecture proposed on the site.

h. Concealed light source. Light sources shall be concealed or shielded to the maximum extent feasible to minimize the potential for glare or unnecessary diffusion on adjacent property. All lights shall be directed downward and the light source shall be equipped with "cut-off" devices so that they do not negatively impact any adjacent property and to ensure that ambient skyward light is eliminated.

3. **The Five Principles for Responsible Outdoor Lighting** will guide the Town of Berthoud's outdoor lighting decisions because:

a. Whereas, outdoor uses of Artificial Light at Night (ALAN) often include inappropriate and bright sources of light that cause an unsafe reduction in human visual performance; and

b. Whereas, excessive, unnecessary, and misdirected ALAN contributes to Light Pollution and wastes energy resources that would, if corrected, generate tangible cost savings; and

c. Whereas, increased use of ALAN has contributed to an escalation of Light Pollution, thus increasing the brightness of the night sky by 10% annually and rendering the current night sky orders of magnitude (often hundreds of times) brighter than the natural and original sky background; and

d. Whereas, Light Pollution from ALAN is known to cause adverse effects on the health and well-being of birds, wildlife, nocturnal ecosystems, vegetation, and under certain circumstances, human health;

i. Now, therefore, let it be resolved that the Town of Berthoud, which has the authority to protect natural resources and maintain a healthy environment for present and future generations, chooses to enact this outdoor lighting code.

4. **Definitions.** The following definitions apply to terms used in this Code:

a. **ANSI:** American National Standards Institute.

b. **ANSI/IES Lighting Standards:** Applicable outdoor lighting standards and metrics include but are not limited to outdoor retail spaces, outdoor sports and recreational areas, outdoor industrial areas, roadway and parking facilities, and outdoor pedestrian areas.

c. **ALAN (artificial light at night):** Light that is created from human technology, rather than a naturally occurring process. Also known as anthropogenic lighting.

d. **Candela (cd):** The unit of measure for luminous intensity.

e. **CCT (correlated color temperature):** The measured color appearance of light emitted by a light source described using a nominal value stated in kelvins (K). Lower CCTs (1800 K to 2200 K) appear very warm or amber. Medium CCTs (2700 K to 3000 K) appear "warm white," similar to standard incandescent bulbs. High CCTs (4000 K and higher) appear "cool white" or "blue."



f. **DarkSky Approved Outdoor Sports Lighting:** A standalone program put forth by DarkSky International to guide and/or certify sports lighting that meets stringent glare and *Light Trespass* requirements.

g. **Five Principles for Responsible Outdoor Lighting:** Co-authored and published by DarkSky International and the Illuminating Engineering Society: 1) Use light only if needed; 2) distribute light only where it is needed; 3) use light that is no brighter than needed; 4) control light so it is on only when needed; and 5) use warmer color light when possible.

h. **Fully Shielded:** A *Luminaire* designed or shielded in such a manner that no light is emitted, either directly or indirectly, at or above a horizontal plane running through the lowest light-emitting part of the luminaire.

i. **IES (Illuminating Engineering Society):** An *ANSI*-recognized Standards Development Organization. ANSI/IES Recommended Practices are universally recognized as authoritative references for lighting applications.

j. **Illuminance:** Measured in *Lux* or footcandles, the total luminous flux incident at a point on a surface.

k. **Light Level:** The maintained *Luminance* or *Illuminance* value.

l. **Light Pollution:** *ALAN* traveling into areas where it is not needed or wanted. This can be in the form of *Light Trespass*, glare, or atmospheric sky glow.

m. **Light Trespass:** *ALAN* illuminating past property lines without permission. Unless specified otherwise, light trespass limits are measured at any location along a property line both horizontally at the ground plane facing upward and vertically at 1.5 meters (5ft) above grade with the meter aimed toward the light source in question.

n. **Lighting Zones:** An ANSI/IES/DarkSky system describing the luminous environment and related lighting conditions based on land uses and expected tasks. These range from natural and intrinsically dark zones to very bright zones.

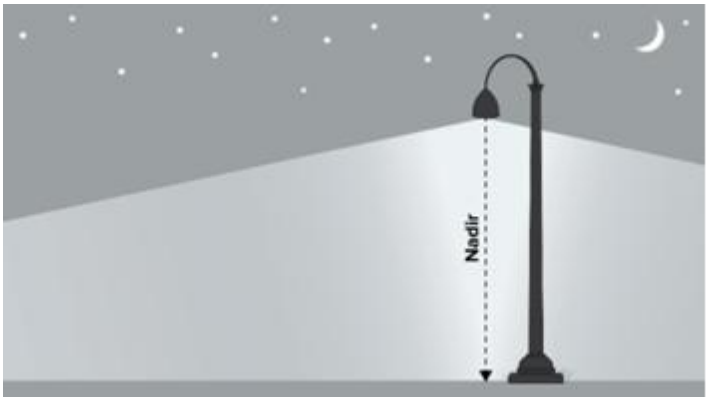
o. **Lumen (lm):** A unit of measure of the *luminous flux* of a light source.

p. **Luminaire:** A complete lighting unit, including the light source, housing, optics, electronics, and other necessary components for the purpose of providing outdoor illumination.

q. **Luminance:** The intensity of light emitted from a surface per unit area in a given direction.

r. **Lux (lx):** The SI metric system unit of measure for *Illuminance*. Measured as 1 lumen per square meter (3 square feet)

s. **Nadir:** A downward vertical vector directly beneath a luminaire, opposite to zenith.



t. **Nighttime Hours:** The time between [10] PM and sunrise, or 7 AM (whichever comes earlier). For businesses and events with operating hours later than [10] PM, nighttime hours will begin one hour after closing.

u. **Non-essential:** Lighting that is not directly associated with the physical safety of motor vehicle and pedestrian threats, including but not limited to: landscape lighting, illuminated signage, or advertising after business hours, façade lighting, vacant sports fields, and seasonal lighting.

v. **Residential Use:** Municipal zoning districts dedicated exclusively to places of low-rise (i.e., 3 stories or less) human residence and dwelling. Examples include single family, duplex, dual family, multi-family, apartment, townhouse, and mobile home. This does not include mixed-use or commercial districts with combined dwellings.

w. **Seasonal Lighting:** Outdoor or site lighting that is portable, temporary, decorative, and used in connection with holidays and traditions. This includes but is not limited to string lighting, icicle lighting, and lighted inflatables, none of which are intended for general illumination.

x. **Security Lighting:** Illumination used specifically to protect people, property, and infrastructure from criminal threat.

y. **Shielding:** A *Luminaire* design, optical intervention, or physical accessory (such as a louver) preventing light emission from traveling into a particular area, angle, or region.

5. Applicability

a. The lighting standards of this Chapter shall be applicable to all exterior lighting within the Town. All exterior lighting installed after the effective date of this ordinance codified herein shall conform to the standards established by this Chapter. The effective date of Ordinance 1336 for Oil and Gas regulations shall conform to the standards established by this Chapter. This code applies to all sources of outdoor lighting installed or replaced within the Town of Berthoud after enactment date. This includes, but is not limited to, newly permitted development and construction projects involving homes, dwellings, roadways, public right-of-way, signage, billboard, buildings, facilities, properties, landscape, parking lots, hardscape, non-habitable structures, and monuments.

b. Existing outdoor lighting lawfully installed prior to the adoption of these regulations~~[date]~~ and not meeting the requirements of this code shall be considered legal and repairable but non-conforming. All non-conforming Luminaires may continue to be used and maintained until one of the following occurs:

1. A determination by the Town of Berthoud that an outdoor light source constitutes a hazard to public safety or constitutes a nuisance.
2. When a property is re-zoned for a new land use, at which time all outdoor lighting on the property shall meet the requirements of this code before the new use commences.
3. A 10-year amortization period exists from the date the light code become effective to the date whereupon all lighting must conform to this Code.

6. **Exemptions**

a. Lawful: Lighting requirements mandated by a legal jurisdiction with broader authority (e.g., federal, state, or territorial) than the Town of Berthoud, including but not limited to:

1. Navigational lighting systems regulated by the Federal Aviation Administration and the US Coast Guard.
2. Any contradictory building code or Department of Transportation illumination requirements.
3. Lighting for worker safety as mandated by the Occupational Safety and Health Administration.

b. Safety: Luminaires installed for the benefit of public safety, including but not limited to:

1. Security Lighting as determined by a municipal official with authority.
2. Temporary lighting used by authorized first responders during emergency procedures.

c. Historic: Luminaires replicating time period historical character and lighting effect that are protected by historical registration, or otherwise permitted by an authority having jurisdiction.

d. Permitted: Temporary and semi-permanent lighting approved by municipal permit for special events, festivals, and community benefit, provided the permitted lighting still meets light trespass requirements and does not add further disruption to ecological migration or habitat.

e. Flags: Lighting of national, state, or local municipal flags that is shielded from the sides to a narrow beam of no more than 15 degrees. Nighttime illumination of other flags is not allowed. When possible, lowering and removing flags from sunset to sunrise is encouraged so illumination is not needed. The use of top of pole, downward-directed lights is encouraged.

f. Seasonal: Seasonal string lighting of a temporary nature is allowed between October 15 and March 15. Seasonal string lighting shall not create dangerous glare on adjacent streets or properties, shall be maintained in an attractive condition, and shall not constitute a fire hazard. Multicolored lighting is acceptable.

1. When seasonal lighting is white, it shall not exceed a CCT of 3000K.
2. Lightbulbs shall not exceed 3 inches in size.
3. Lighting shall be in a singular strand along no more than two (2) of the following features:
   i. The building roof eave line;
   ii. The building window trim;
   iii. Building columns; or
   iv. Railings.
4. Seasonal lighting is subject to the following curfew hours. During these times, all seasonal lighting shall be extinguished.
   i. Residential: 10:00 p.m. to 7:00 a.m.

ii. Non-Residential: Curfew hours of 10:00 p.m. to 7:00 a.m. shall apply to all businesses unless normal operating hours end or begin within the hours of curfew. If so, the curfew applies until one (1) hour after closing or one (1) hour before opening.

7. Prohibitions

a. ALAN must not interfere with the safe movement of motor vehicles. Any lighting that distracts or disables the vision of a motor vehicle operator (e.g., excessively bright or rapid blinking, flashing, and/or motion video) or contributes to traffic control confusion (e.g., sources resembling or imitating traffic or railroad signals) is prohibited.

b. Beacons and searchlights, except for emergency use by authorized first responders.

~~V.~~B. Outdoor Lighting Requirements

1. **General**

a. Legal: All outdoor Luminaires and Luminaire installations shall comply with federal and state law; county and municipal codes; applicable energy and building codes; product safety labeling; the requirements of this [Code]; and shall be subject to the appropriate permit and inspection requirements thereof.

b. Light Level: Unless otherwise specified in this Code, lighting installed for an outdoor use shall not exceed 25% more than the Light Level recommended by the applicable ANSI/IES Lighting Standard, or a state approved alternate, as published by effective date.

c. Distribution: Unless otherwise specified in this Code, Luminaires emitting more than 1,000 Lumens shall be Fully Shielded and shall emit no more than 5% of their total Lumen output above 80 degrees from Nadir. Exceptions are:

1. Festoon string lighting where no individual lamp emits more than 50 lumens, and the lumen density of the string is no greater than 25 lumens per foot.

2. Directional Luminaires used for façade illumination which are shielded and aimed to hit their target such that the light is contained by architectural elements.

d. Trespass: Unless otherwise specified in this Code, Light Trespass shall meet the following:

1. Luminaire light sources shall not be visible from federal or state designated wilderness, natural area, habitat, or reserves, and Light Trespass shall measure no greater than 0.1 Lux.

2. Light Trespass onto Waters of the United States shall measure no greater than 1 Lux.

3. Light Trespass onto Residential Use property shall measure no greater than 1 Lux.

e. Curfew: Non-essential outdoor lighting, including but not limited to landscape and decorative lighting elements, shall be extinguished during Nighttime Hours.

1. When applicable, outdoor lighting shall dim or be extinguished during Nighttime Hours as prescribed by an adopted energy code.

f. Controls: Luminaires activated by motion detection shall automatically turn off or return to their dimmed state no more than [5] minutes after activity is no longer detected.

g. Spectrum: Unless otherwise specified in this Code, the maximum allowable correlated color temperature (CCT) for outdoor Luminaires is 3000 Kelvin.

1. Exception: CCT exemptions are allowed if a public safety need is documented.

2. Residential Use

The following requirements are supplementary to the General Outdoor Lighting Requirements (**Section 2.1** and its subsections) and shall further regulate outdoor lighting on Residential Use property:

a. Lighting for Residential Use, excluding roadway, parking, and public right-of-way, shall be exempt from the requirement in **Section 2.1(B)** provided no single Luminaire exceeds 1,000 lumens and the total installed lumens per dwelling are limited to:
    1. No single Luminaire exceeds 1,000 lumens
    2. Residential uses (1 unit only): 6,500 lumens per net acre
    3. Residential uses (2 units or greater): 20,000 lumens per net acre

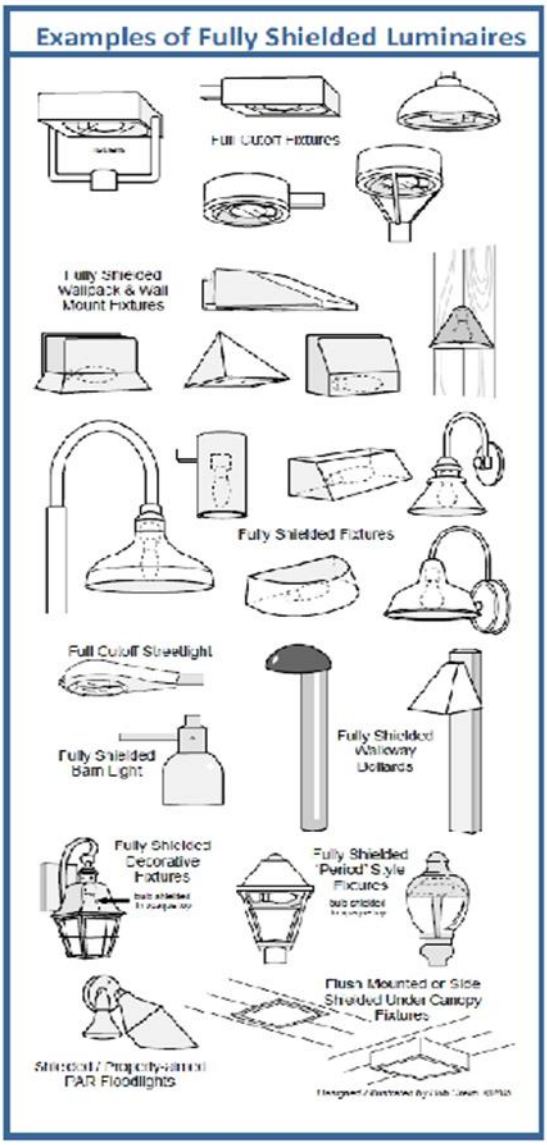
b. Light Trespass leaving Residential Use property shall be no greater than 1 Lux.

c. *Tree*, garden and landscape lighting is subject to curfew hours and shall be turned off between the hours of 10:00 p.m. and 7:00 a.m.

d. Pole Lights. Pole mounted lighting for multi-family common areas or any parking lot adjacent to a residential use are allowed up to twelve (12) feet from finished grade. This allowance shall not exceed light trespass limits.

e. When needed, Residential Use roadway Luminaires shall be a maximum 2400 Kelvin.

f. All area lights, including street lights and parking area lighting, shall have a maximum BUG rating of B2-U0-G1 according to the guidelines set forth by the Illuminating Engineering Society (IES) TM15-11. Examples of these luminaires can be found in example below:



3. Non-Residential Use

The following requirements are supplementary to the General Outdoor Lighting Requirements (Section 2.1 and its subsections) and shall further regulate outdoor lighting on non-residential property. The total allowable site lumens for nonresidential properties are based on the square footage of the facade and other elements of the developed structure, landscape buffer, and hardscape. A site shall calculate a maximum site lumen allowance by choosing a maximum of four (4) of the following lighting types and adding their limits:

a. Non-Residential Use lighting shall be exempt from the requirement in Section 2.1(B), provided there is no Luminaire installed on the property capable of exceeding a total output greater than 3,000 Lumens.

b. Building Entrance: 1,000 lumens per door. Luminaires shall be located within 20 feet of the door.

c. Building Facades: 10 lumens per square foot of building façade that is illuminated. Luminaires shall be aimed at the façade and capable of illuminating it without obstruction.

d. Nighttime Service Loading: 4,000 lumens per service loading door. Luminaires shall be located within 20 feet of the door.

e. Outdoor At-grade Parking Lot: 500 lumens per parking space. See 180-6.16.4.A. Parking Lot Lighting Standards.

f. Gas Station Canopy: 5,000 lumens per fuel pump. Each side of a two-sided pump qualifies for an allowance.

g. *Tree*, garden and landscape lighting is subject to curfew hours and shall be turned off between the hours of 10:00 p.m. and 7:00 a.m.

h. Outdoor Dining: 8 lumens per square foot of illuminated hardscape for outdoor dining. Luminaires shall be within 6 feet of the hardscape area of outdoor dining.

i. Pole Lights: Pole mounted lighting for non-residential parking lots is allowed up to twenty (20) feet tall from finished grade, provided it is not directly adjacent to residential property. This allowance shall not exceed light trespass limits.

j. Light Trespass leaving non-Residential Use property onto adjacent public right-of-way shall be no greater than 3 Lux when measured 20 feet past the property line.

k. Adaptive Controls and Curfews: All future non-Residential outdoor lightings will use adaptive controls and or lighting curfews to control and ALAN.

l. *Towers.* All radio, communication, and navigation towers that require lights shall have dual lighting capabilities. For daytime, the white strobe light will be used, and for nighttime, only red lights shall be used.

4. Security Lighting

Motion sensor lights shall be permitted if they are fully shielded and downcast per the requirements of this section. All motion sensor lights, or proposed security surveillance systems shall meet the following criteria.

a. Multi-Family residential and nonresidential common areas with increased density and activity may require increased illumination at primary points of entrances or exits. Light intensity shall not exceed 50 lux average at grade.

b. Shielded floodlights controlled by a motion sensor shall be limited to motion within the owner's property lines and turned off no more than five (5) minutes after such motion was detected.

c. Security lighting shall be properly installed/commissioned so it shall not be oversensitive to surroundings and be triggered repeatedly in an unreasonable or disruptive manner by naturally occurring causes (such as wind in foliage).

d. It is located in such a manner as to prevent glare and lighting onto properties of others or into the public right of way.

5. Signage

The purpose of the sign design standards is to promote a high level of quality and creativity, in keeping with the architectural goals and the character of Berthoud. The goal of the guidelines is also to encourage sign design that is eclectic, artistic, and original.

a. *Illumination*. The illumination of signs is intended to minimize the undesirable side effects of excessive illumination such as glare, sky glow, and light pollution. The following standards shall apply to sign illumination:

1. *Light Source.* All exterior sign lighting shall be fully shielded and down-directed so that light is directed only onto the sign face and not aimed at the sky, adjacent streets, roads, or properties. All upward-directed sign lighting is prohibited.

2. *Luminance levels*. Luminance levels for signs shall not exceed 100 nits (100 candelas per square meter) between sunset and sunrise, as measured under the conditions of a full white display.

3. During the first hour after sunset and during the last hour immediately preceding sunrise, sign luminance shall not exceed 100 nits (100 candelas per square meter, cd/m2)

4. Signs may only be illuminated while the associated activity is taking place; for businesses, sign illumination must be extinguished completely during the hours the business is closed.

5. The luminous or illuminated surface area of an individual sing must not exceed 18.6 square meters (200 square feet).

6. *Curfew.* Sign illumination shall be extinguished completely one (1) hour after sunset or one-half (1/2) hour after the end of normal business hours, whichever is later, and remain off until at least one (1) hour before sunrise.

7. *Adaptive controls.* Sign lighting shall be controlled by a light sensor, timer, or equivalent system in order to properly adjust the sign luminance and minimize the duration of illumination. Should an electronic problem prevent normal function, the sign shall default to night mode or remain unlit.

8. *Component Painting.* All light fixtures, conduit, and shielding must be concealed and shall be painted to match either the building or the supporting structure that serves as the background of the sign.

9. *Externally Illuminated Signs.* Externally lit signs shall be illuminated only with steady, stationary, shielded light sources directed solely onto the sign without causing glare. Light bulbs or lighting tubes used for illuminating a sign shall be simple in form and should not clutter the building or structure. Light bulbs or lighting tubes should be shielded so as to not be physically visible from adjacent properties and public rights-of-way.

10. *Internally Illuminated Signs.* Internally illuminated signs with light colored backgrounds, including, but not limited to, white, off-white, light gray, cream and yellow are discouraged.

11. *Fixtures.* Lighting fixtures shall be simple in form and should not clutter the building. The fixtures must be directed only at the sign. Lighting for front lit signs shall be housed in fixtures and installed in a manner that will serve to substantially shield exposed bulbs and lighting tubes from public view. Gooseneck or other building mounted fixtures are encouraged.

6. Sports Lighting

The following requirements are supplementary to the General Outdoor Lighting Requirements (Section 2.1 and its subsections) and shall further regulate outdoor lighting for sports and recreational areas to provide essential requirements for safe play and light trespass mitigation. Following ANSI/IES RP-6 guidelines.

a. Lighting for sports and recreational areas shall also meet the following requirements:

1. Eighty-five percent (85%) of the lumens generated by sports lighting luminaires shall be confined to within 10 meters (33 feet) or a distance of one pole height, whichever is greater, of the playing field or the spectator track or bleacher area, whichever is greater.

2. Lighting installations for aerial sports are allowed a maximum of 8% of the total lumen output to be emitted above 80 degrees from Nadir.

3. When the recommended sports field Light Level is higher than 100 lux, installed lighting shall not exceed 10% more than the Light Level recommended by the applicable ANSI/IES lighting standard, or a state approved alternate, as published by the effective date.

4. The maximum CCT for outdoor sports lighting should be the lowest possible for the sport, class of play, and viewing audience as defined by the relevant ANSI/IES lighting standard, or any state approved alternative, but never exceeding 5700 K.

5. The maximum luminous intensity from any luminaire lighting a sports field shall not exceed 10,000 candelas (cd) as measured along a perimeter that is 46 meters (150 feet) from the edge of the field, at 1.5 meters (5 feet) above grade

6. A 10 pm curfew exists for all sports and recreational outdoor field lighting, or one hour after play ends.

7. Timers shall be install for all sports and recreational outdoor lighting to prevent lights being left on overnight.

~~WWWWW.~~C. **Administrative Requirements**

1. **Permit Application**

a. Submittal: Whenever a building, subdivision, site plan, or outdoor lighting permit is applied for, an outdoor lighting plan must be submitted along with a compliance statement that the proposed work will comply with all code requirements. All applications for building permits or land use planning review which include installation of outdoor lighting fixtures shall include lighting plans conforming to the provisions of this Section. Town staff has the authority to request additional information in order to achieve the purposes and intent of this Section.

The outdoor lighting plan must follow one of the following:

1. The submittal shall contain the following information and be submitted as part of the site plan to the Planning and Building departments for approval.

i. Plans indicating the location, type, intensity, and height of luminaries including both building and ground-mounted fixtures;

ii. A description of the luminaries, including lamps, poles or other supports and shielding devices, which may be provided as catalogue illustrations from the manufacturer;

iii. Photometric data, such as that furnished by the manufacturer, showing the angle of light emission and the foot-candles on the ground. Area and roadway lighting requires compliance with the BUG rating with this data; and

iv. Additional information as may be required by the Town in order to determine compliance with this Chapter.

b. Review: Submitted spreadsheets, site lighting plans, and compliance affidavits shall be subject to review and approval by the administrator, or designee. The administrator shall have the authority to refer an application to the planning and zoning commission or the historic commission if deemed appropriate.

c. Appeals: Any appeals related to decisions regarding outdoor lighting shall be made to the administrator, or designee.

2. Enforcement and Penalty

a. Enforcement: Unless otherwise noted in this code, the administrator, or designee, shall be responsible to implement, administer, and enforce this code, including investigations of alleged violation. A private right of action may also constitute enforcement of the requirements within this code.

1. The administrator charged with enforcing this chapter shall have the authority to grant partial waiver of specific code requirements for up to one year if a property owner demonstrates that compliance creates unreasonable hardship, as balanced against the potential impacts of non-compliance, or results in conditions that are materially detrimental to health, safety or welfare.

b. Penalty: Any property owner that does not meet the requirements of this code shall be in violation. A person, firm, or corporation found to have violated, disobeyed, omitted, neglected, or refused to comply with any provisions of this code shall be issued a notice and administrative citation as provided by the municipal code. Any person, firm, or corporation found to have violated any portion of this code shall correct the violations within ninety (90) days of the citation date. Each day a violation continues beyond ninety (90) days of the citation date without having been corrected shall be a separate offense.

c. Private Action: Any person adversely affected by lighting that does not meet the requirements of this code shall have a private cause of action for nuisance against the person, firm, or corporation responsible for such lighting.

30-62-119 Environmental considerations

A. *Intent*. The intent of this section is to ensure that new development limits or mitigates impact to environmentally sensitive areas, as defined in the definition section of this Chapter. ~~wildlife and wildlife habitat, and that environmental impacts from development are minimized.~~

B. *General provisions*.

1. *Protection of environmentally sensitive areas~~wildlife and natural areas~~*. Development shall be designed to ensure that disturbances which occur to any environmentally sensitive areas ~~Natural Area~~ as a result of development shall be minimized through the use of natural buffer zones. If any development materially disturbs an environmentally sensitive areas ~~Natural Area~~, the development project shall mitigate such lost natural resource either on — or off-site and any such mitigation shall be roughly proportional to the loss suffered as a result of the disturbance as approved by the Town. ~~. The Town shall encumber Natural Areas accepted by the Town with conservation easements.~~

~~a. *Natural Areas include*: floodplains (1% annual chance or 100-year floodplain) and floodways, natural drainage and water ways, lakes and water bodies significant native trees and vegetation, wildlife travel corridors and habitats, special habitat features such as raptor nest sites, key nesting, breeding or feeding areas for birds; fox and coyote dens, remnant native habitat, cottonwood galleries, and any wetland greater than one-quarter acre in size~~

a~~b~~. A buffer zone shall be required between proposed development and environmentally sensitive areas ~~natural areas listed above and environmentally sensitive areas as defined in the definition section of this Chapter shorelines, wetlands, river and riparian corridors, and proposed development~~ to ensure that the proposed development does not degrade the natural area. The size of the buffer zone shall a minimum be 150 feet, as determined by the Town which may choose to consult with other agencies or individuals. The Town may decrease this buffer when strict application of this subsection can be proven to impose an exceptional hardship upon the property owner and appropriate mitigation measures approved by the Town are taken.

b~~c~~. *Exceptions*. The Board may allow disturbance or construction activity within the environmentally sensitive areas ~~Natural Area or natural area~~or buffer zone for the following limited purposes: mitigation of development activities, restoration of previously degraded areas, emergency public safety activities and utility installations when such activities and installations cannot reasonably be contained within other nearby developed areas, construction of a trail that will provide public access for educational or recreational purposes, or the enhancement of the habitat value and/or other natural resource values of an environmentally sensitive areas ~~Natural Area~~.

c~~d~~. *Ecological characterization*. If the Town determines that the site likely includes areas with wildlife, plant life, and/or other natural characteristics in need of protection, the Town may require the developer to provide a report prepared by a professional qualified in the areas of

ecology, wildlife biology, or other relevant discipline. The ecological characterization report should be included with the open space plan and describe the following:

i. The wildlife use of the natural area showing the species of the wildlife using the area, the times or seasons the areas is used by those species and the "value" (meaning feeding, watering, cover, nesting, roosting, perching) that the area provides for such wildlife species;

ii. The boundary of wetlands in the area and a description of the ecological functions and characteristics provided by those wetlands;

iii. Any prominent mountain or lake views from or across the site;

iv. The pattern, species, and location of any significant native trees and other native site vegetation;

v. The bank, shoreline and high water mark of any perennial stream or body of water on the site;

vi The boundary of any floodplain and floodway and a description of the ecological and flood control functions and characteristics provided by these designations.

vii. Wildlife travel corridors, and

viii. The general ecological functions provided by the site and its features.

e. *Wildlife conflicts*. If wildlife that may create conflicts for the future occupants of the development are known to exist in areas adjacent to or on the development site, then the development plan must, to the extent reasonably feasible, include provisions to minimize conflicts that might occur between such wildlife and the developed portion of the site.

30-62-120 Sustainability

A. *Intent*. The intent of this section is to ensure that the Town encourages the integration of sustainable practices in development in the community. These include: solar power and solar access, alternative storm water management practices and alternative street widths as appropriate. Compliance with nationally certified energy efficiency programs including the "Energy Star" program is encouraged in order to help ensure the long-term sustainability of the Berthoud community. Comparable non-certified energy efficiency standards are also acceptable.

B. *General provisions*.

1. Developments shall consider the use of raw or non-potable water for irrigation. Any non-potable spray irrigation system must be managed to minimize odors that may occur during spray irrigation.

2. Developments shall incorporate water-saving measures into both building and landscaping design.

3. Developments shall investigate the use of alternative storm water management techniques that address both water quality and quantity.

30-62-121 Sanitary sewer

All residential, commercial and industrial uses which have human occupancy shall have sanitary sewer. The sanitary sewer system shall be connected to an existing public sanitary sewer system and shall consist of a closed system of sanitary sewer mains and lateral branch connections to each structure or lot upon which a structure is to be built. Sanitary sewer lines are to be of sufficient size and design to collect all sewage from all proposed or portable structures within the subdivision or development. All sanitary sewer system design and construction must

conform to the Town of Berthoud Engineering and Infrastructure Standards and Construction Specifications as the same may be amended from time to time.

(Ord. No. 1296 , § 2, 11-9-2021)

30-62-122 Potable water

All residential, commercial, and industrial uses which have human occupancy, shall have potable water served by the Town or appropriate water district. The water system shall be of sufficient size and design to supply potable water to each structure or lot upon which a structure is to be built. All potable water system design and construction must conform to the Town of Berthoud Engineering and Infrastructure Design Standards and Construction Specifications as the same may be amended from time to time.

(Ord. No. 1296 , § 3, 11-9-2021)

30-62-123 Storm water drainage facilities

1. *Intent*. To promote innovative and effective land and water management techniques that protect and enhance water quality. Regional storm water detention facilities meeting provisions of the Town of Berthoud Master Storm Water Plan, as amended, may be part of any overall storm water plan for a particular development.
2. *Urban Drainage Design Standards*. All storm water facilities shall be designed per the Urban Drainage Design Standards, as amended.
3. *Water Quality Standards*. All storm water facilities must be designed in order to meet or exceed the Larimer County, Colorado standards, as amended, for water quality.
4. The Town supports staged, or timed, storm water detention and release as long as appropriate studies and documentation are completed and approved. These studies would include a Basin Study for the applicable area.
5. *General provisions*.
    a. All storm water drainage facilities shall be appropriately landscaped. Landscaping associated with storm drainage facilities shall be integrated into the overall design of the project.
    b. Storm drainage facilities shall enhance the overall appearance of the project, prevent erosion and improve water quality of storm water runoff whenever possible.
    c. Storm drainage facilities may function as open space for active recreation, trail corridors or habitat enhancement areas if they are designed appropriately and approved by the Town.
    d. The use of planting strips and shallow landscaped depressions (bio-swales) in parking lots and along roads may be utilized to help trap and remove pollutants from storm water runoff.
6. *Minimum requirements*.
    a. All facilities shall be seeded to grass appropriate to the function of the area. Areas to be maintained for habitat enhancement shall be seeded to native grasses and wildflowers. Developer is responsible for establishment of a complete, weed free stand of grass. Trail corridors may be seeded to native grasses if appropriately integrated with adjacent improvements. Areas to be used for active recreation shall be seeded to a turf type mix or other drought tolerant grass acceptable to the Town and irrigated with a permanent irrigation system.

b. Maximum side slope on drainage facilities shall be 4:1, minimum slope of the bottom of a drainage facility shall be one-half percent.

c. Landscape improvements shall be designed to enhance the function of the facility. Areas designed for recreation shall include clusters of trees to provide shade, located so they do not impair the function of the facility.

d. Habitat and water quality enhancement including wetland plantings in low wet areas is encouraged.

7. *Ownership and maintenance*.

a. All drainage facilities shall be owned and maintained by the landowner or occupant unless otherwise approved by the Town.

8. *Storm water drainage fees set by Resolution*.

a. Storm water drainage fees are set by the Board of Trustees and are charged based on the square footage of impervious surface on a given property.

9. *Properties exempt from storm water drainage fees*.

a. The following properties are exempt from the imposition of storm water drainage fees:

i. All public park land;

ii. All public or private ponds, lakes, reservoirs, rivers, creeks, natural water courses, wetlands or irrigation ditch/canal rights-of-way;

iii. All public streets, highways, rights-of-way and alleys;

iv. All railroad rights-of-way except railroad property not utilized for railroad purposes;

v. All cemeteries; and

vi. All lands actively used for agriculture and larger than two acres in size.

30-62-124 Fire hydrants

The developer or builder of any subdivision shall install fire hydrants at street intersections and at other points as per the requirements of the Berthoud Area Fire Protection District and the Town of Berthoud.

30-62-125 Project specific master plans

A. Each applicant shall submit and receive approval of separate drainage and utility master plans for their project. Said master plans shall be prepared in conformance with the applicable Town master plan and the appropriate reference criteria manual. The intent is that these documents be reviewed, modified as appropriate and approved as completed preliminary documents. These documents then can be expanded to provide more detail, design documentation and to describe any refinements at the final report stage. These reports must address immediate, phased development (if any) and full buildout aspects of utility and drainage handling. They must address short and long term impacts and the need for any additional common use municipal facilities. The utility plan must specifically address the load (conveyance and treatment) placed on municipal facilities and must document acceptance by the respective enterprises of their willingness to satisfy these loads.

30-62-126 Project construction documents

Intent. The design and construction of infrastructure improvements is the responsibility of the developer. The design must be documented in writing, should be made part of the final drainage or utility master plan as appropriate, and should be reflected in the construction documents. The construction documents are typically

done as one package with distinctive sheets dedicated to utilities and drainage and a common set of specifications. These construction documents must be prepared to a condition of completeness suitable for competitive bid even if competitive bidding is not utilized. The plans and specifications can be separately bound or, in the case of a minor subdivision, for example, the specifications can be made on the drawings. Specifications must follow CSI or another commonly accepted industry standard and technical referrals must be to current standards.

30-62-127 Water and wastewater line extension policy

A. *Statement of purpose*. It is the purpose of this policy to provide a fair and equitable distribution of the costs of installing water and wastewater lines to all the parties benefiting from their installation. This policy covers most cases, but recognition is made that special cases may occur. When special cases do occur, deviations may be made from the specifics of the policy, provided the final arrangements maintain this fair and equitable intent. Such arrangements can be made through the mutual consent of the Town Administrator and the developer of the property. Such arrangements shall be contained in a development agreement executed by the developer and the Town. This ordinance shall be interpreted and enforced to ensure that a development will pay all direct costs and their proportionate share of indirect costs.

B. *Line installation policy*. In order to facilitate the orderly continuation of the Town's water distribution and wastewater collection systems, water and wastewater mains shall be installed to the furthest point or points of a property. The developer shall install lines on more than one side of the property and/or through more than one internal easement or right-of-way if it is determined that those lines are needed to provide service to other properties beyond the subject property.

C. All mains which are necessary for the service to or within a property or as required above, shall be installed ate the cost of the developer, except for the following conditions:

    1. Mains larger than those required to serve the property but required by the Town shall be subject to the provisions of this Code.

    2. Prior to construction, plans and specifications for the water and wastewater systems to be installed shall be reviewed and approved by the Town Administrator after consultation with the appropriate engineering and other appropriate staff.

D. The developer shall be responsible for payment of the Town's review, inspection and associated costs. Such costs shall be in accordance with the actual costs. Payment of such costs shall be made prior to acceptance by the Town of the improvements by the Town.

E. Upon completion of the work and written acceptance by the Town the water distribution and wastewater collection systems shall become the property of the Town.

F. The Town shall own and maintain the water mains, water main appurtenances, and fire hydrants and appurtenances therein. The property owner shall maintain the service line attachment to the main line, meter, meter pit, vaults and all other appurtenances from the main line. For fire service lines the Town's ownership ends at the valve on the main or the point of connection to the last domestic service off the line.

G. The Town shall own and maintain the wastewater mains, manholes and regional wastewater lift stations. The property owner shall maintain the wastewater service line and attachment to the main line. Where a lift station is built to provide service to a specific development or area the Town may either establish a special monthly assessment to cover maintenance, overhead and depreciation or require a property owners' association to cover these costs.

H. All workmanship and materials shall be warranted in writing by the developer against any defects for a period of one year from the date of acceptance by the Town. Any repair or reconstruction performed during such warranty period as a result of defects in material and/or workmanship shall be warranted for a period of one year from the acceptance of such repair or reconstruction by the Town.

I. Properties which are served by private lines that were not constructed according to Town approved plans and specifications shall have mains complying to Town standards installed and extended to serve the property. The cost thereof shall be paid by the owners served, or assessed against the owners in accordance with applicable laws.

J. No mains shall be extended outside the Urban Service Area, except as may be necessary to serve the property within the Town or upgrade service to existing customers, without the prior express written consent and approval of the Board of Trustees.

30-62-128 Reimbursement policy and procedure

A. *Reimbursement for line extension through undeveloped property*. In accordance with the Comprehensive Plan, development is encouraged in areas directly adjacent to the Town. In the event a development is not located adjacent to the Town a developer may find it necessary to install a water or wastewater lines through undeveloped property to obtain service. Such person may request the establishment of a reimbursement agreement to recover a portion of the line installation costs from subsequent future development along the line.

1. The establishment of a reimbursement agreement is optional and must be requested by the developer prior to construction of the line.

2. The developer shall obtain three independent written quotes or bids for the line. The lowest bid shall be the bases for establishing a reimbursable amount, regardless of whether the low bidder performs the work or not. The quotes or bids shall be obtained for doing the work in a reasonable but not an accelerated time period.

3. The reimbursable amount shall not be increased or decreased to reflect fluctuations in construction costs and shall not be increased for interest or decreased for depreciation. The date of the construction quote or bid shall establish the initial index value.

4. The reimbursement agreement shall expire after a period of ten years from the acceptance of the line unless extended in writing by the Board of Trustees.

5. Reimbursement payments shall be due and payable prior to the installation of any service or line extension to the undeveloped parcel.

6. If the line is installed through or adjacent to more than one property, the future developers shall pay for their proportional share based on the usage of the line generated through their property.

B. *Reimbursement for line extension through previously developed areas*. A developer may find it necessary to replace and existing undersized or otherwise inadequate line to obtain service. The developer may be eligible to establish a reimbursement agreement in the following cases:

1. If a property adjacent to the replacement line had a tap on the original undersized line and is later subdivided, the developer of this second property shall reimburse the original developer an amount determined pursuant to the provisions of this ordinance. To be eligible for such reimbursement, the developer must establish a reimbursement agreement as provided in this Code.

2. If the line to be replaced is in such a condition or configuration that it would in the opinion of the Town Administrator be eligible for replacement, the Town may pay the portion of the cost that it would incur to replace or upgrade the line as calculated, subject to fund availability. Such Town participation shall be administered in accordance with this Code.

C. *Reimbursement for major structures*. A developer may find it necessary to install a major structure to obtain water or wastewater service. The developer may be eligible to establish a reimbursement agreement.

1. A reimbursement agreement may be established if the major structure is a component of the water distribution or wastewater collection system that will bring direct benefits to an identifiable area. Examples are:

a. Wastewater lift stations;

b. Water booster pump stations;

c. River or highway crossings.

2. The cost of the utility line or structure required by the project itself shall be paid by the Developer. The cost of the remainder of the utility line required by the Town shall be paid by the Town.

3. To be eligible for reimbursement, the developer shall establish a reimbursement agreement as provided in this Code.

30-62-129 Line oversizing policy

A. *General*. The purpose of the line oversizing policy is to enable a developer to recover the costs incurred to install an oversized water or wastewater line. The "oversized" portion is the difference between the line size required by the property and the line size required by the Town to meet future growth demands. The developer is required to bear the full costs for installing eight-inch wastewater lines, or larger if required to serve that development, and for installing all water lines six inches in diameter, or larger if required to serve that development.

B. *Line sizing*. The actual size of the water or wastewater line required shall be initially established by the developer with supporting documentation to verify that the sizes of the water or wastewater lines, or both, meet the Town's specifications. Final evaluation and design shall be determined by the Town. Criteria to be used for this determination shall include, but shall not be limited to the following:

1. Utility Master Plan requirements.

2. Potential future demand on the water or wastewater system as related to the proposed development.

3. Hydraulic design criteria of the water or wastewater system.

C. *Town participation in oversizing project*. The Town may require a developer to install an oversized water or wastewater line. If an oversized line is required, the Town will participate in the project costs if the oversizing is required to provide service to the Town's existing customers.

D. *Developer reimbursement*. When the Town requires a developer to oversize either water or wastewater lines to meet the needs of anticipated development, the developer may request the Town to enter into a reimbursement agreement. The agreement may provide that the developer will be reimbursed the cost of the required oversizing from future developments which make use of the oversizing. The reimbursement agreement shall expire upon repayment to the developer of the oversizing costs or the expiration of ten years from the completion of the installation.

E. *Determination of eligible project costs*.

1) Only those components of the water or wastewater line project that are specifically related to the oversizing shall be included for oversizing participation. Eligible costs include those costs to furnish and install the oversized pipe, fittings, valves and service saddles. The costs for design installation, service lines, manholes, surface repairs and connected lines and appurtenances are not eligible. Wastewater manholes will be included if larger than a four-foot diameter manhole is needed because of the wastewater line size.

2) *Construction quotes*. If the developer is aware that there will be oversizing required and that the cost of the oversizing is less than $5,000.00, the developer shall obtain a minimum of three written quotes from qualified contractors for construction of the oversized line. The quotations shall be based on construction of the line in a reasonable but not an accelerated time period. The Town and the developer shall agree on a reasonable time frame to be included in the request for quotations. The lowest quote shall be the basis for determining eligible oversizing costs.

3) *Competitive bids*. If the cost of the oversizing is estimated to be greater than $5,000.00, the developer shall obtain competitive bids for the construction of the oversized line, in accordance with the State laws and Town procedures for capital projects. The bids shall be based on construction of the line in a reasonable but not an accelerated time period. The Town and the developer shall agree on a reasonable time frame to be included in the request for quotation. The Town and the developer have the right to reject any and all bids, for cause.

4) *Determination of final costs*. The developer's engineer shall submit to the Town a summary of the final eligible project costs. The final costs shall be based on the lower of the actual installation costs or the bid received for the project.

F. *Water and wastewater development agreement*. If the Town agrees to participate in an oversizing project, the developer shall prepare a Water and Wastewater Development Agreement which will include:

1. An estimate of the oversized line project costs, prepared by a Professional Engineer. Itemization of the cost estimate shall be attached to the agreement.

2. Distribution of project costs between the Town and the developer.

3. Time schedule or phasing plan(s) which the developer agrees to comply with.

4. Any reimbursement agreements between the developer and future developers along the oversized line.

5. The Water and Wastewater Development Agreement shall be reviewed and signed by the Utility Superintendent, the Town Attorney, and the Developer.

~~30-2-130 Non-Potable Water Systems Ordinance~~

~~1. *Title.* This chapter shall be known as the Town Of Berthoud Non-Potable Water Systems Ordinance.~~

~~2. *Interpretation.* This chapter shall be interpreted and construed so as to effectuate its general purposes to make uniform the terms and conditions for the development and use of non-potable water systems. However, this chapter shall not be applied in a manner inconsistent with annexation agreements in existence prior to the effective date hereof.~~

~~3. *Size and Design Standards*. All non-potable water systems shall be of sufficient size and design to supply non-potable water to the lands to be irrigated with said system. All non-potable water system design and construction must conform to Denver Water Engineering Design and Construction Standards as amended, as applicable to non-potable water systems.~~

~~4. *Approvals of Non-Potable Water System.*~~

~~A. *Applications*. The person developing the property who wishes to utilize a non-potable irrigation system shall provide the following to the Town:~~

~~(1) The proposed manner of delivery, including duration and volume of water;~~

~~(2) The reliability of the system;~~

~~(3) The plan for system maintenance and the entity to be responsible for such maintenance;~~

~~(4) The proposed manner in which the non-potable water irrigation system will be connected to the Town's treated water system so that treated water can be used for irrigation when the supply of non-potable water is unavailable or insufficient including, but not limited to backflow devices;~~

~~(5) A calculation of the volume of water which a non-potable system will be able to provide on a monthly basis in lieu of the usage of treated water for irrigation purposes;~~

~~(6) The amount and location of water storage as necessary to provide water from the non-potable water system;~~

(7) The analysis required by the Town of Berthoud Development Code Section 30-10-105.8(D); and

(8) Such other analysis as the Town deems necessary.

B. *Approval*. The person who wishes to utilize a non-potable water system shall pay for an analysis by the Town through a qualified engineer to review the information set forth in Section 4(A) above. No non-potable water systems shall be utilized without written approval from the Town.

PART III — GENERAL PROVISIONS

1. *Interpretation.* This Ordinance shall be so interpreted and construed as to effectuate its general purpose to make uniform the terms and conditions for the sale of treated water from the Town water system contained herein. However, this Ordinance shall not be applied in a manner inconsistent with annexation agreements in existence prior to the effective date of this Ordinance. Section headings of this Ordinance shall not be deemed to govern, limit, modify or in any way or manner affect the scope, meaning intent or extent of the provisions of any article or section thereof.

2. *Validity.* If any part or parts of this Ordinance is/are, for any reason, held to be invalid, such decision shall not affect the validity of the remaining portions of this Ordinance. The Town Board hereby declares that it would have codified these provisions and each part or parts thereof, irrespective of the fact that any one part or parts be declared invalid.

3. *Repeal of Old Ordinances.* Existing Ordinances or parts of Ordinances and Town of Berthoud Development Code Sections covering the same matters as embraced in this codification including but not limited to Section 30-10-105 of the Development Code are hereby repealed and all Ordinances or parts of Ordinances and Town of Berthoud Development Code Sections inconsistent with the provisions of this Ordinance are hereby repealed.

30-2-130 Non-Potable Water Systems

1. *Title.* This section shall be known as the Town Of Berthoud Non-Potable Water Systems Regulations.

2. *Interpretation.* This chapter shall be interpreted and construed so as to effectuate its general purposes to make uniform the terms and conditions for the development and use of non-potable water systems. However, this chapter shall not be applied in a manner inconsistent with annexation agreements in existence prior to the effective date hereof.

3. *Size and Design Standards*. All non-potable water systems shall be of sufficient size and design to supply non-potable water to the lands to be irrigated with said system. All non-potable water system design and construction must conform to Denver Water Engineering Design and Construction Standards as amended, as applicable to non-potable water systems.

4. *Approvals of Non-Potable Water System.*

A. *Applications*. The person developing the property who wishes to utilize a non-potable irrigation system shall provide a Non-Potable Water Irrigation System Plan to the Town, which plan shall include the following information:

(1) The proposed manner of delivery, including duration and volume of water;

(2) The reliability of the system;

(3) The plan for system maintenance and the entity to be responsible for such maintenance;

(4) The proposed manner in which the non-potable water irrigation system will be connected to the Town's treated water system so that treated water can be used for irrigation when the supply of non-potable water is unavailable or insufficient including, but not limited to backflow devices;

(5) A calculation of the volume of water which a non-potable system will be able to provide on a monthly basis;

(6) The amount and location of water storage as necessary to provide water from the non-potable water system;

(7) The analysis required by the Town of Berthoud Development Code Design Standards Section; and

(8) Such other analysis as the Town deems necessary.

B. *Approval*. The person who wishes to utilize a non-potable water system shall pay for an analysis by the Town through a qualified engineer to review the Non-Potable Water Irrigation System Plan containing the information set forth in Section 4(A) above. No non-potable water systems shall be utilized without written approval from the Town.

30-62-131 Subdivision identity and place standards

A. *Intent.* Subdivision identity and place elements shall be provided with all development proposals containing a residential component. ~~in all single-family and two-family residential or mixed-use and multi-family developments.~~ The Subdivision identity and place standards ensure spaces are created ~~are to create areas~~ for gathering, recreation, and design features. These spaces are required ~~, intended~~ to create a unique character or sense of identity within each subdivision. Subdivision identity and place elements may include a pocket park, trail system, pedestrian plaza and/or courtyard, community building or pool, community garden or pollinator garden, artwork/water features, playground or picnic/barbeque area, signage, fencing, and other approved elements which substantially improves the character of the subdivision.

Except as otherwise provided herein, no credit for one of the required features, shall be given for items that are otherwise required by other provisions of this Development Code, such as landscaping, park or open space requirements. A mechanism shall be defined and established by the developer to ensure perpetual maintenance of all subdivision identity and place features. Where such mechanism involves a homeowners' association or metro district, there shall be clear language provided of their responsibility on all plats and development agreements.

B. *Applicability.* Subdivision identity and place features are required in all developments which include residential use, including ~~require a Major Subdivision plat (i.e. any development in which five or more lots are created), as required~~ ~~in Table 3.131~~, ~~including~~ un-platted phases of existing developments. In new developments, the required subdivision identity standards will be counted for the entire development; in existing developments with un-platted phases, all new phases will require elements as per the number of units/acreage of the remaining phase proposed. Where the number of acres and the number of dwelling units proposed in a development results in two different numbers of required subdivision identity and place elements, the larger number of required elements shall be used. The following table specifies the quantity of elements required per the number of units or acreage of the development.

Subdivision Identity and Place Element Table
~~Table 3.131~~

Number of Units/Acreage of Development	Elements Required (22 total possible)
5 to 20 Dwelling units; or 2-5 acres	4
21 to 50 dwelling units; or 6-11 acres	7~~4~~
51 to 100 dwelling units; or 11-50 acres	8~~5~~
101 to 200 dwelling units; or 51-100 acres	9~~6~~
201 to 300 dwelling units; or 101-200 acres	10~~7~~
Over 301 dwelling units; or 201 acres or more	11~~8~~

C. *Elements.*

1. *METRO/HOA Responsibility.* All elements shall be the responsibility of the Metro district or HOA, unless otherwise agreed upon by the Town.

2. *Element Category Eligibility.* Combining elements of one category or offering multiple elements in one of the element categories below, will not count towards the total required elements outlined in the Table above~~of Table 3.131~~ (ex. five playgrounds which satisfy the requirements below, will only be entitled for credit for one element for playground features, and not be credited for five elements); each element category may be counted towards the overall total only once.

3. *Element Category Credits.* One c~~C~~redit shall be given for the following subdivision identity and place elements~~ as follows~~:

   a. *Trails~~:~~* shall be designed to provide areas for walking, bicycling and/or riding in areas separate from and in addition to traditional sidewalks. Trails are to be avoided along collector and arterial streets and should include meandering pathways or trails rather than linear sidewalk. Trails shall be designed and constructed using one of the following designs appropriate for the location as determined by the Trails Master Plan in the Berthoud PORT Plan, and as determined by Town Staff:

      i. Ten-foot-wide paved concrete multi-modal trail ~~shall count as one element for trail systems less than 5,000 linear feet; if the trail is not required by the PORT plan, and over 5,000 linear feet, the trail shall count as two elements~~.

      ii. Eight-foot-wide crusher fines trail with collared edges, or as per the parks master plan, whichever is greater ~~shall count as one element~~.

   b. *Pocket Park:* A pocket park(s) ranging from one-third of an acre to two acres in gross size~~, shall count as one element~~. Pocket Parks ranging from two acres to five acres in size, shall count as two elements.

   c. *Artwork:* Artwork such as sculptures, fountains, water features, informational placards~~, shall count as one element~~.

   d. *Playground:* Any playground(s) with commercial grade playground equipment, picnic/barbeque areas with commercial grade equipment, or court games (tennis, volleyball or basketball), ~~shall count as one element~~ provided the area is at least 1,000 square feet in size, and the detail of the playground equipment, must be included with the site plan/landscape plan.

   ~~e. *Community Gardens:* Community garden(s) with irrigation systems and collars to define garden edges, shall count as one element. Community gardens require 1,000 square feet (aggregate) of size for 21 to 50 dwelling units and/or 11 acres or less; and 1,000 square feet of additional community garden area per the graduated subdivision dwelling unit and acreage size found on Table 3.131 above.~~

   f. *Pollinator Gardens:* A pollinator garden(s) with collars to define edges, s~~hall count as one element~~. Pollinator gardens require 1,000 square feet (aggregate) of size for 21 to 50 dwelling units and/or 11 acres or less; and 1,000 square feet of additional pollinator garden area per the graduated subdivision dwelling unit and acreage size ~~found on Table 3.131 above is required to satisfy the element~~.

   g. *Pool:* An in-the-ground swimming pool at least 20 feet by 40 feet in size ~~shall count as two elements~~.

   h. *Community Building:* A community building at least 4,000 square feet in size to serve the subdivision with meeting rooms, restrooms, changing/locker rooms, and/or fitness facilities or any combination of the above~~, shall count as two identity elements~~.

i. *Entryway:* An integrated entryway system, including retaining walls, walls, landscaped area, medians, lighting and/or subdivision signs crafted of brick, stucco or wrought iron ~~shall count as one element~~.

j. *Buffer Areas:* Buffer yards along arterial and collectors, adjoining subdivisions, and/or the perimeter of the subdivision of no less than 30 feet~~, shall count as one element~~. Buffer areas shall be comprised of berms, turf, trees, and/or shrubs.

k. *Fencing and Walls:* Enhanced fencing or walls which may include masonry, brick, wrought iron and/or unique alignments such as serpentine, off-sets, sculptural effects and/or more frequent placement of columns or posts, shall be counted as one-half of one element. F~~or developments where the improved fencing/walls is located along any major corridor exceeding 500 linear feet, shall be counted as one element.~~ Vinyl fencing will not be eligible for element credit.

l. *Useable Detention Areas:* A useable or improved detention pond(s) a minimum of 5,000 continuous square feet in size, with turf, natural grass, trees, shrubs and other amenities such as benches or picnic tables that do not impede detention capacity, including a permanent irrigation system and higher quality construction materials (i.e., decorative rock for riprap), and/or ability for use as athletic fields, to be perpetually maintained by the development~~, shall count as one element. Useable detention areas over 40,000 square feet shall count as two elements~~.

m. *Existing Trees:* Protecting or retaining existing trees of sufficient calipers ~~shall count as one element~~ and will require the submittal of an existing tree survey to qualify.

n. Useable Open Space: Open space (above the already required ten percent) that is comprised of a continuous 10,000 square foot turf area which can be easily utilized for recreational activities, such as a disc golf course~~, shall qualify for credit as one element. Useable Open Space over one acre in size, shall count as two elements.~~ Pollinator garden ~~and community garden~~ areas may be included in the useable open space calculation.

o. *Alley Loaded Streets:* Alley loaded streets along any arterial, collector, or lots fronting onto a neighborhood park and/or open space ~~shall qualify for two elements only~~ if maintained by the HOA or Metro District. ~~If the alley loaded street is maintained by the Town, then it shall only qualify for one element.~~

SECTION 7 SIGNS

30-7-101 General provisions

A. *Purpose.* The regulations in this Section are intended to coordinate the use, placement, physical dimensions, and design of all signs within the Town. These regulations are established to safeguard the health, safety, convenience, order and welfare of all residents of the Town. The Town recognizes that signs may act as a visual means of communication between the public and businesses and those businesses have an expectation of using signs to identify and advertise themselves. In addition, the purpose of these regulations is to:

1. Recognize that signs are a necessary means of visual communication for the convenience of the public and provide flexibility within the sign review/approval process to allow for unique circumstances and creativity.
2. Recognize and ensure the right of those concerned to identify businesses, services and other activities by the use of signs, and not limit signs which are accessory and incidental to the use on the premises where such signs are located.
3. Provide a reasonable balance between the right of an individual to identify their business and the right of the public to be protected against the visual discord resulting from the unrestricted proliferation of signs and similar devices.
4. Protect the public from damage or injury caused by signs that are poorly designed or maintained.
5. Ensure signs are well-designed and contribute in a positive way to the Town's visual environment, express local character, and help develop a distinctive image for the Town of Berthoud.
6. Encourage signs that are responsive to the aesthetics and character of their particular location, adjacent buildings and uses, and the surrounding neighborhood. Ensure signs are compatible and integrated with the building's architectural design and with other signs on the property.
7. Ensure signs are appropriate for the type of street on which they are located.
8. Ensure signs adhere to the Town’s Dark Sky regulations.
9. Enhance property values and business opportunities.
10. Assist in wayfinding.
11. Provide fair and consistent permitting and enforcement.

B. *Intent.* It is the intent of these regulations to provide for the proper control of signs in a manner consistent with the First Amendment guarantee of free speech. It is not the intent of these regulations to regulate signs based on the content of their messages. Rather, these regulations advance important, substantial, and compelling governmental interests.

1. The incidental restriction on the freedom of speech that may result from the regulation of signs hereunder is no more than is essential to the furtherance of the important, substantial, and compelling interests that are advanced by these regulations.
2. The Town has an important and substantial interest in preventing sign clutter (which is the proliferation of signs of increasing size and dimensions as a result of competition among property owners for the attention of passing motorists and pedestrians), because sign clutter:

a. Creates visual distraction and obstructs views, potentially creating a public safety hazard for motorists, bicyclists, and pedestrians;

b. May involve physical obstructions of streets or sidewalks, creating public safety hazards;

c. Degrades the aesthetic and essential historic character of the Town, making the Town a less attractive place for tourism, commerce, and private investment; and

d. Dilutes or obscures messages displayed along the Town's streets through the proliferation of distracting structures and competing messages.

3. The Town has a substantial and/or compelling interest in preventing traffic accidents.

4. The Town has a substantial and/or compelling interest in preventing negative impacts associated with temporary signs. Temporary signs may be degraded, damaged, moved, or destroyed by wind, rain, snow, ice, and sun, and after such degradation, damage, movement, or destruction, such signs harm the safety and aesthetics of the Town's streets if they are not removed.

C. *Relationship to other regulations.* The provisions of these regulations shall apply to the display, construction, erection, alteration, use, maintenance, and location of all signs within the Town.

1. Nothing contained in this Section shall be deemed a waiver or variance of the provisions of any other provisions of the Development Code as applicable to signs.

2. If any provision of this Section conflicts with any other adopted Town code that regulates signs, the more restrictive standard shall apply provided, however, to the extent an approved, unexpired and currently effective Planned Unit Development as described in Section 30-3-104 R *Planned Unit Development (PUD) Overlay District* includes specific sign allowances and/or restrictions that directly conflict with these regulations, the approved PUD regulations shall apply to the extent of the conflict. In lieu thereof, the property owner may elect to fully comply with these regulations in the area of the conflict.

3. The Town recognizes other regulations pertaining to signage (i.e., State of Colorado, Department of Highways, "Rules and Regulations Pertaining to Outdoor Advertising," effective January 1, 1984, and as may be amended).

4. The content of signs related to marijuana businesses is restricted by state laws and regulations, and both the advertising and sale of marijuana are prohibited by federal law. The Town has no authority to supersede state or federal marijuana laws.

5. Nothing in this Section shall be construed as a defense to a violation of applicable state or federal law.

6. Where any provision of this Section covers the same subject matter as other Town, state or federal regulations, the more restrictive regulation shall apply.

30-7-102 Sign permits

A. *Sign permit required*. To ensure compliance with the regulations of this Section, a sign permit shall be required in order to erect, move, alter, reconstruct or repair any permanent or temporary sign, except signs that are exempt from permits under Section 30-7-103 *Exempt signs*.

1. In multiple tenant buildings, a separate permit shall be required for each business entity's sign(s).

2. Separate building and electrical permits may be required for signs and will be determined on a case-by-case basis.

3. Changing or replacing the copy on an existing sign shall not require a permit.

B. *Comprehensive sign plan.* A comprehensive sign plan is required as a part of the development review process for all commercial projects with multiple lots or buildings or multiple tenants. Comprehensive sign plans are also required for all new signs on multiple tenant buildings or centers with multiple lots.

1. For any multi-tenant center, industrial park or other unified form of commercial site development or redevelopment, the applicant shall submit a comprehensive sign plan with a sign permit application that consists of coordinated and/or shared signage for the entire development.

2. A comprehensive sign plan shall be in accordance with the following criteria:

   a. Signs shall meet the design criteria established in Section 30-7-106 *Sign design*.

   b. After reviewing an applicant's submittal of a comprehensive sign plan, the Manager may vary standards for area, height and number of individual signs during sign permit review.

   c. The Manager may approve up to a twenty percent (20%) change in one or more dimensional or numerical standards based on the applicant demonstrating the change is warranted by a comprehensive sign plan which represents exceptional design.

C. Applications for sign permits shall be made in writing on forms furnished by the Town. The application shall contain:

1. The location by street number of the proposed sign structure;

2. Names and addresses of the owner and the person or company erecting the sign;

3. Legible site plans which include the specific location of the sign and setbacks to adjacent property lines and buildings;

4. A detailed drawing indicating the dimensions, materials, and colors of the proposed sign structure. A certification by a registered professional structural engineer may be required by staff for a monument or projecting sign;

5. A description of the lighting to be used, if applicable and a narrative detailing how the proposed lighting will be compliant with the Town's Dark Sky regulations;

6. If the sign is to be located off the premises in compliance with Section 30-7-111 *Off-Premise sign standards*, a written lease or permission from the property owner of the site on which the sign will be located; and

7. Sign permit fee as established by the current fee schedule.

D. *Staff review and approval.*

1. Within five days of the receipt of a completed application, staff shall either certify the application is complete and in compliance with all submittal requirements or reject it as incomplete and notify the applicant in writing of any deficiencies. The applicant shall address deficiencies and resubmit application materials.

2. When staff has determined the application to be complete, staff shall review the sign permit in accordance with the established review criteria and has the authority to approve, approve with conditions or deny the sign permit. Upon staff's approval of the sign permit, the sign permit and any building or electrical permits required for the sign shall be issued to the applicant.

E. *Review criteria*. The following review criteria will be used by the Town to evaluate all sign permit applications:

1. Sign meets the requirements of this Section;

2. Sign conforms to the requirements of the building and electrical code;

3. Sign conforms to the size, height, material and location requirements of the Zoning Code for the zoning district in which it is located;

4. Sign would not interfere with pedestrian or vehicular safety;

5. Sign would not detract from the character of an architecturally significant or historic structure;

6. Sign would not be located so as to have a negative impact on adjacent properties;
7. Sign would not detract from the pedestrian quality of a street or area, if applicable;
8. Sign meets the Town's Dark Sky regulations;
9. Sign would not add to an over-proliferation of signs on a property or area; and
10. Sign structure and location are consistent with the purpose and intent of this Section.

F. *Appeal*. Any appeal of Town's denial of a sign permit or approval with conditions shall be made to the Board of Adjustment as provided in Chapter 30, Section 3: Zoning, of the Development Code.

30-7-103 Exempt signs

A. *Exemptions from required sign regulations*. The following types of signs are exempt from permit requirements of this Section and may be placed in any zoning district subject to the provisions of this Section. Such signs shall otherwise be in conformance with all applicable requirements contained in this Section. All such signs (except public signs) shall be located outside a street right-of-way. Signs shall not interfere with traffic signs or the sight distance triangle at intersections. Evidence of permission to install a sign may be required as the Town investigates compliance with this Section. All other signs shall be allowed only with permit and upon proof of compliance with this Section.

1. *General*. Signs that are not visible from any public thoroughfare or right-of-way, except that such signs shall be subject to the safety regulations of the adopted version of the Uniform Building Code and all other Codes (electrical, mechanical, etc.) governing building construction in the Town.
2. *Bulletin board.* Bulletin board signs not exceeding 12 square feet in gross surface area accessory to a religious institution, school, or other public or nonprofit institution.
3. *Site sign*. Site signs as defined in Sec. 30-1-116 *Definitions* and subject to the standards in Section 30-7-110 *Temporary Sign Standards*.
4. *Directional*. On-premises directional and instructional signs not exceeding six square feet in area each.
5. *Incidental signs.* Incidental signs as defined in Sec. 30-1-116 *Definitions* which do not exceed three square feet in area.
6. *Flags*. Exempt flags include:
    a. for residential properties up to two flagpoles no more than 18 feet high with a combined total of 48 square feet of flag area.
    b. for commercial areas up to two flagpoles of no more than 36 feet high with a combined total of 144 square feet of flag area. Additional flag installations shall be subject to a sign permit and the square footage of any additional flag shall be included in the total sign area permitted for the subject property.
7. *Yard sign.* Yard signs as defined in Sec. 30-1-116 *Definitions* and subject to the standards in Section 30-7-110 *Temporary sign standards*.
8. *Temporary window signs.* Temporary window signs as defined in Sec. 30-1-116 *Definitions,* limited to 25 percent or less of any individual window area.
9. *Text*. No permit shall be required for text or copy changes; provided that no structural changes are made to the sign.
10. *Time and temperature*. Signs displaying only time and temperature, not to exceed 6 square feet. Time and temperature devices shall not be included within the measurement of maximum sign area permitted by Section 30-7-109 B *Sign allowance.*

11. *Public signs* as defined at Section 30-1-116 *Definitions*.

12. *Vehicular signs*. Vehicular signs as defined at Section 30-1-116 *Definitions*, provided that the primary purpose of such vehicles is not for the display of signs, and provided that they are parked or stored in areas appropriate to their use as vehicles.

    a. *Projection.* Signs on vehicles shall not project beyond the surface of the vehicle in a manner which creates a hazard to pedestrians, cyclists or other vehicles.

    b. *Prohibitions.* It shall be unlawful to place or store a vehicle with a sign on it in such manner as to increase the permitted sign area or number of signs either on-site or off-site for a non-residential use. Also see Section 30-7-104 A. 12 *Prohibited Signs*.

13. *Handheld signs.* Handheld signs as defined at Section 30-1-116 *Definitions* shall not exceed 20 square feet in area. No person shall place, maintain or otherwise utilize a handheld sign in a manner which obstructs or makes hazardous the free passage of pedestrians and motor vehicles on any street, sidewalk or public right-of-way.

30-7-104 Prohibited signs

A. *Prohibited signs*. The following signs are inconsistent with the purposes and standards in this Section and are prohibited in all zoning districts.

1. Flashing, rotating, blinking or moving signs, animated signs, signs with moving, rotating or flashing lights or signs that create the illusion of movement

2. Electronic messaging signs, except signs which convey a static digital message such as a price sign at a fueling station or a time and temperature device.

3. Any sign that is erected in such a location as to cause visual obstruction or interference with motor vehicle traffic, bicycle traffic or traffic-control devices including any sign that obstructs clear vision in any direction from any street intersection or driveway.

4. Mechanical or electrical appurtenances, such as "revolving beacons", that are designed to compel attention.

5. Roof signs.

6. Internally illuminated signs. See Section 30-7-107 *Sign illumination*.

7. Pole signs.

8. Any sign other than traffic control signs erected, constructed, or maintained within, over or upon the right-of-way of any road or highway, except in the case of a sign for which a permit has been issued with the requirements of this Section.

9. Off-premises signs, except for temporary sidewalk signs. See Section 30-7-111 *Off- premise sign standards*.

10. Any sign which interferes with free passage from or obstructs any fire escape, downspout, window, door, stairway, ladder or opening intended as a means of ingress or egress or providing light or air.

11. Any sign located in such a way as to intentionally deny visual access to an adjoining property owner's existing sign.

12. Vehicular signs that are on stationary or immobile vehicles or trailers for over seven days including but not limited to, signs painted on or attached to semi-trailers or cargo containers when exhibited on public property or private property adjacent to public right-of-way. Vehicular signs used in connection with a special event and construction trailers are exempted from the requirements of this Section

during the duration of the special event or construction project only. Upon the conclusion of the special event, such signs must be removed.

13. Searchlights.

14. Signs with optical illusion of movement by means of a design which presents a pattern capable of reversible perspective, giving the illusion of motion or changing of copy.

15. Abandoned signs, as defined in Section 30-1-116 *Definitions*, (together with its supporting structure). If the sign or sign structure is covered or the identifying symbols or letters removed, an extension of time may be granted by the Director upon good cause for such extension being shown. (This provision shall not apply to permanent signs accessory to businesses which are open only on a seasonal basis, provided that there is clear intent to continue operation of the business).

16. Any sign or sign structure which:

    a. Is structurally unsafe;

    b. constitutes a hazard to safety or health by reason of inadequate maintenance or dilapidation;

    c. Is not kept in good repair; or

    d. Is capable of causing electrical shocks to persons likely to come in contact with it.

17. Any sign or sign structure which:

    a. ;

    b. In any way obstructs the view of, may be confused with or purports to be an official traffic sign, signal or device or any other official sign;

    c. Creates in any way an unsafe distraction for motor vehicle or bicycle operators; or

    d. Obstructs the view of motor vehicle or bicycle operators entering a public roadway from any parking area, service drive, private driveway, alley or other thoroughfare.

30-7-105 Sign measurement

A. *Sign area*. The area of a geometric shape enclosing any message, logo, symbol, name, photograph or display face shall be measured using standard mathematical formulas.

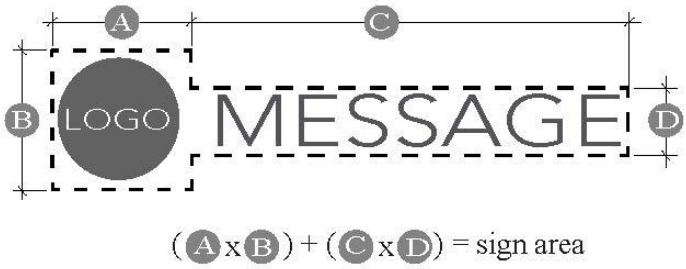
1. *Sign support*. Supporting framework or bracing that is clearly incidental to the display itself shall not be computed as sign area.

2. *Back-to-back (double-faced) signs*. Back-to-back signs shall be regarded as a single sign only if mounted on a single structure, and the distance between each sign face does not exceed two feet at any point.

3. *Three-dimensional signs*. Where a sign consists of one or more three-dimensional objects (i.e. balls, cubes, clusters of objects, sculpture), the sign area is the largest display surface visible from any single direction.

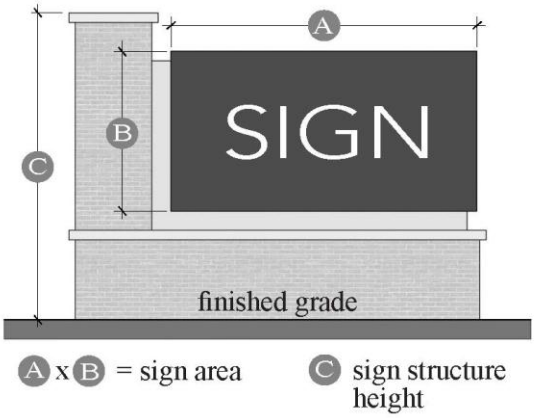
4. *Wall signs*. If a sign is attached to a wall only that portion of the wall onto which the sign face or letters are placed shall be calculated in the sign area, with the following exception: colors used behind or around a sign to differentiate it from the building façade shall be included in the sign area.

Figure 7.1: Sign area measurement



B. *Sign height*. The height of a sign shall be measured from the highest point of a sign structure to the finished grade. When berms are used in conjunction with signage, the height of the sign shall be measured from the mean elevation of the fronting street.

Figure 7.2: Sign area and height measurement



30-7-106 Sign design

A. *Design compatibility*.

1. *Creative design encouraged*. Signs shall make a positive contribution to the general appearance of the street and commercial area in which they are located. A well-designed sign can be a major asset to a building. The Town encourages imaginative and innovative sign design.

2. *Proportionate size and scale*. The scale of signs shall be appropriate for the building or property on which they are placed and the area in which they are located. Building signs shall be harmonious in scale and proportion with the building facade they are mounted upon.

3. *Additional design considerations.*

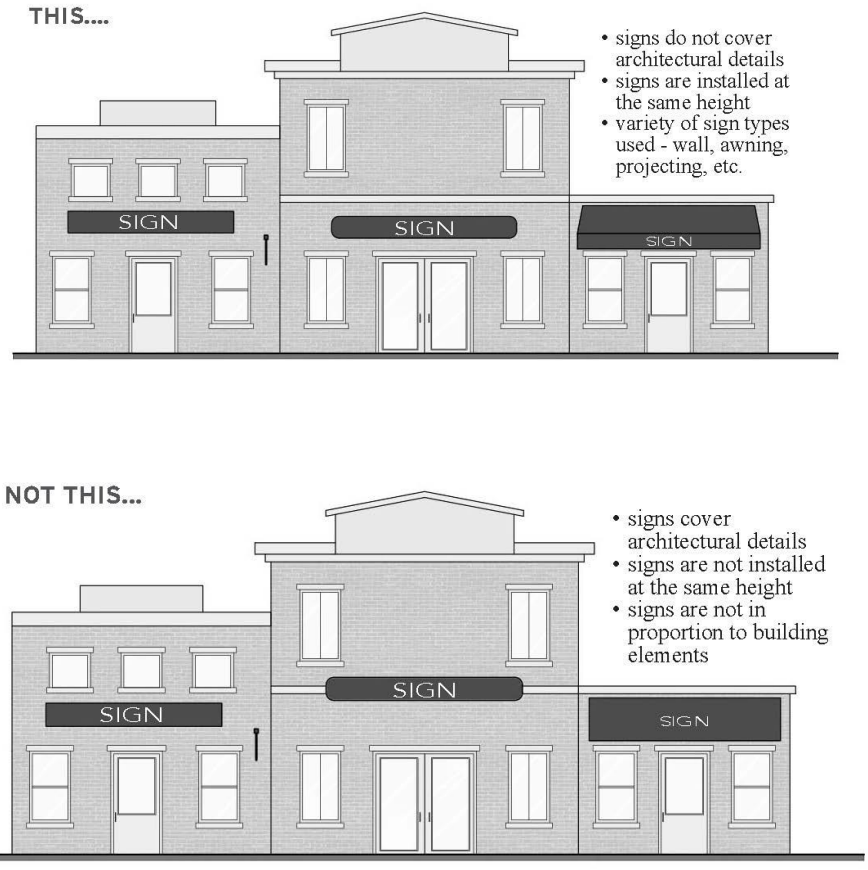
   a. *Visibility*. Signs shall not visually overpower nor obscure architectural features.

   b. *Integrate signs with the building and landscaping.* Carefully coordinate the sign with the architectural design, overall color scheme and landscaping. Signs shall be designed to complement or enhance the other signs for a building.

   c. *Unified sign band.* Whenever possible, signs located on buildings with the same blockface shall be placed at the same height, in order to create a unified sign band. Locate wall signs at the first-floor level only for retail uses.

d. *Pedestrian-oriented signs.* Pedestrian-oriented signs are encouraged. It is desirable to include a pedestrian-oriented sign as one of the permanent permitted signs for a business. These signs are designed for and directed toward pedestrians so they can easily and comfortably read the sign as they stand adjacent to the business.

Figure 7.3: Sign placement



4 ~~5~~. *Landscaping*. Freestanding signs shall be landscaped at their base in a way harmonious with the landscape concept for the whole site. Landscaping shall form an attractive, dense cluster

at the base of the sign that is equally attractive in winter and summer. A landscape plan for the sign base shall be provided.

5. *Reduce sign impact*. Because residential and commercial uses generally exist in close proximity, the foundation and support structure for signs shall be designed, located and/or screened with landscaping so that they minimize impact on adjacent residential neighborhoods, without impairing the communicative purpose of the sign. Small-scale signs are encouraged.

30-7-107 Sign illumination

A. *External illumination.* Unless otherwise specified, all signs that use illumination shall use indirect lighting as defined in Sec. 30-1-116 *Definitions*.

1. All signs that use illumination shall have their lighting directed in such a manner as to illuminate only the face of the sign without causing glare.
2. Any external light source must be downcast and fully shielded.
3. Projecting light fixtures shall be simple and unobtrusive in appearance and shall not obscure the graphics of the sign.

B. *Internal illumination prohibited.* Signs shall not be internally illuminated, with the following exceptions:

1. Neon tubing and LED light ropes are acceptable methods of sign design or sign illumination in the commercial and industrial zone districts.
2. The portion of a sign face dedicated to text or characters may be halo lit, as shown in Figure 7.4. No sign cabinets or light boxes with push through lettering shall be internally illuminated.

Figure 7.4: Sign illumination



C. *Compliance*.

1. All sign illumination shall meet the Town of Berthoud "Dark Sky" regulations established in Sec. 30-2-118 *Outdoor lighting and dark sky standards*.

2. All lighted signs shall meet all applicable electrical codes and the electrical components used shall bear the label of an approval agency. Electrical permits shall be obtained for electric signs.

D. *Hours of operation.* All illuminated signs shall be turned off at close of business, or 9:00 pm, whichever occurs first.

30-7-108 Sign installation, maintenance, alteration and removal

A. *Sign installation*.

1. Where possible, signs shall be mounted so that the mounting brackets and associated mounting hardware are concealed.

2. Projecting signs shall be mounted so they generally align with others in the block.

3. The Town may inspect any sign governed by this Section and shall have the authority to order the repair, alteration or removal of a sign which constitutes a hazard to safety, health or public welfare by reason of inadequate maintenance, dilapidation or obsolescence.

B. *Sign maintenance*.

1. All signs and all components thereof, including sign structures and sign faces, shall be maintained in compliance with all building and electrical codes in force at the time of installation.

2. The owner of a sign and the owner of the premises on which such sign is located shall be jointly and severally liable to maintain such sign, including any illumination sources in neat and orderly condition, and in a good working order at all times, and to prevent the development of any rust, corrosion, rotting or other deterioration in the physical appearance or safety of such sign.

3. The owner of any sign regulated by this Section shall be required to keep signs and supporting hardware, including temporary signs and time/temperature signs structurally safe, clean, free of visible defects and functioning properly at all times. Repairs to signs shall be equal to or better in quality of materials and design than the original sign.

C. *Sign alteration.*

1. Any alteration to an existing sign, other than for a change of copy or for maintenance, shall require a new sign permit pursuant to Section 30-7-102 *Sign permits*.

2. Sign alterations shall include, without limitation:

a. Changing the size of the sign.

b. Changing the shape of the sign.

c. Changing the material of which the sign is constructed.

d. Changing or adding lighting to the sign.

e. Changing the location of the sign.

f. Changing the height of the sign.

D. *Sign removal*

1. *Discontinued establishments*. Whenever a business, industry, service or other use is discontinued, the sign(s) pertaining to the use shall be removed or obscured by the person or entity owning or having possession over the property within 90 days after the discontinuance of such use.

2. *Removal of illegal signs in the public right-of-way*. The Town may cause the removal of any sign within the public right-of-way or on property that is otherwise abandoned that has been placed there without first complying with the requirements of this Section.

3. *Repair and removal of abandoned signs/signs in violation of Code*. The Town may cause the repair or removal of any sign that has become a hazard to public safety. Signs in violation of any other provision of this Code may also be removed by the Town.

4. *Storage of removed signs*. Signs removed in compliance with this Section shall be stored by the Town for 30 days, during which they may be recovered by the owner only upon payment to the Town for costs of removal and storage. If not recovered within the 30-day period, the sign and supporting structure shall be declared abandoned and title shall vest with the Town. The costs of removal and storage (up to 30 days) may be billed to the property owner.

5. *Inspection.* The Town may inspect any sign governed by this Section and shall have the authority to order the repair, alteration or removal of a sign which constitutes a hazard to safety, health or public welfare by reason of inadequate maintenance, dilapidation or obsolescence.

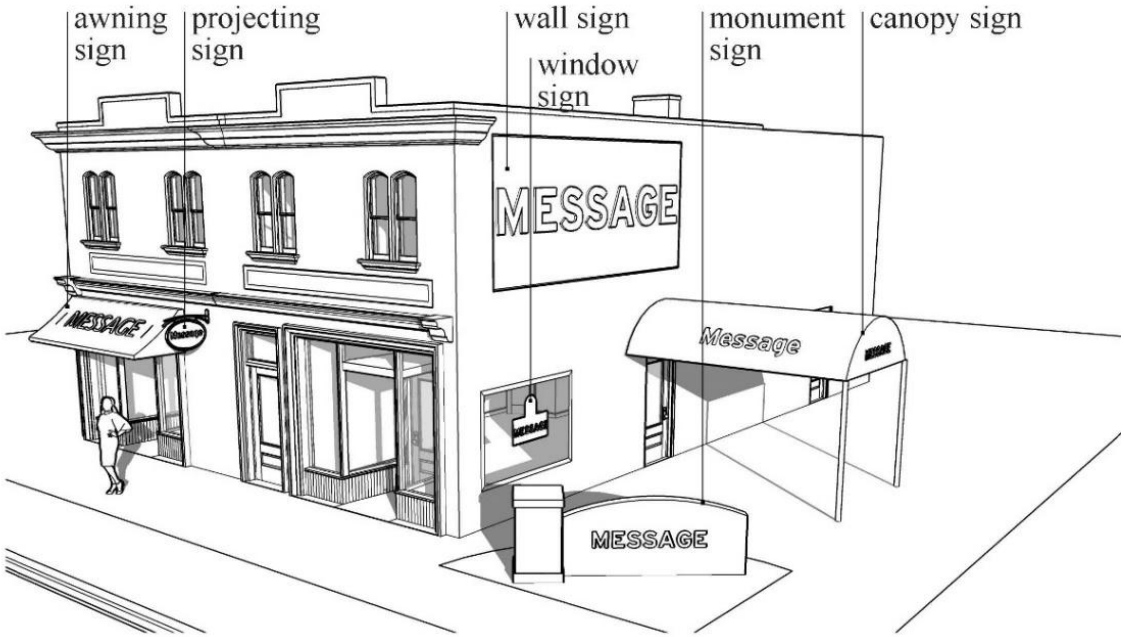
6. *Penalties.* Signs which are not permitted by this Code shall be subject to administrative remedies contained herein.

30-7-109 Permanent sign standards

A. *Permitted permanent sign types*. The illustration in Figure 7.5 identifies the types of permanent signs permitted per this Section.

1. All permanent signs shall be located off the street right-of-way, unless otherwise granted permission for such location by the Town or the Colorado Department of Transportation (CDOT).

Figure 7.5: Permanent Sign Types



B. *Sign allowance*.

1. *Non-residential signs*. All businesses and other non-residential properties within the Town are allowed permanent signage of any type (monument, wall, projecting, canopy, awning, etc.) within the square footage totals identified below and other limitations of this Section:

   a. Two square feet for each linear foot of building up to 200 linear feet of building frontage and an additional one square foot for each linear foot of building frontage over 200 feet. Unless specifically stated otherwise in this Section, the maximum size of any single sign is 288 square feet (12 feet by 24 feet). Any request for a larger single sign will be reviewed by the Planning Commission as a variance to this Section, in accordance with Section 30-3-108 *Board of Adjustment*.

   b. Where the linear frontage of all buildings is less than 30 percent of the total lot frontage, allowable sign sizes are two square feet of sign for each linear foot of building and an additional one square foot of sign for each linear foot of property frontage (less the linear building frontage).

   c. Accessory wall signs count toward the total sign allowance and are limited to no more than 20% of the total wall sign allowance each.

2. *Residential signs*. All residential properties within the Town are allowed permanent signage of any type (monument, wall, projecting, canopy, awning, etc.) within the square footage totals identified below and other limitations of this Section:

   a. The sign allowance for multi-family residential or mixed-use development shall be within the same limits as non-residential signage; see subsection B 1. above, with the following exception: all home-based business signs are limited to no more than two square feet in size.

   b. All home-based business signs or other signs on lots with single-family or two-family dwellings are limited to no more than two square feet in size.

C. *Awning signs*.

1. *General standards*. The following standards apply to all awning signs:

   a. Signs may be placed only on awnings that are located on first- and second-story building frontages, including those fronting a parking lot or pedestrian way.

   b. No awning sign shall project outside the face of an awning.

2. *Awning sign specifications*. Specifications regulating awning signs are shown on Table 7.1:

Table 7.1 Awning sign standards

Zones Allowed	R4, C1, C2, M1, M2, SC, UC, PUD
Sign Permit Required	Yes
Maximum Number	One per window
Maximum Area	Within sign allowance
Maximum Width	Width of window
Maximum Letter Height	Variable
Maximum Valance Height	12 inches
Maximum Projection	Seven feet

Minimum Clearance	Eight feet
Illumination Allowed	Yes; under awning and directed downward

Figure 7.6 Awning sign detail

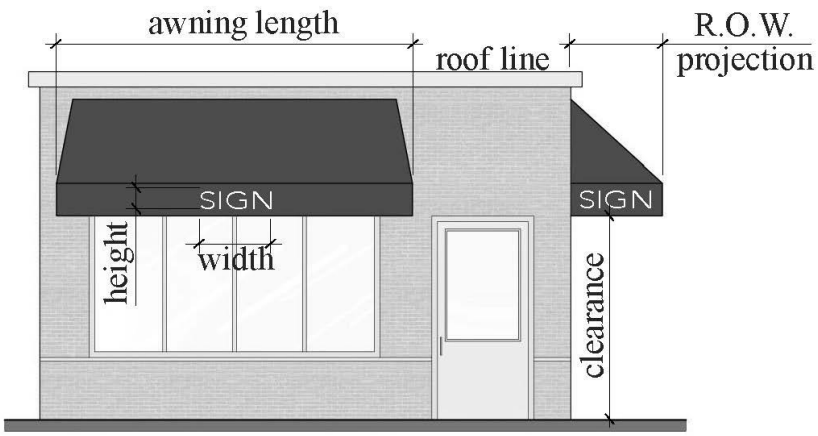


Figure 7.7 Awning sign example



D. *Canopy signs*.

1. *General standards*. The following standards apply to all canopy signs:

   a. No canopy, with or without signage, shall extend above the roof line of any building.

b. No canopy sign shall project above the top of the canopy upon which it is mounted.

c. Under-canopy signs which are perpendicular to the face of the building shall be deemed to be projecting signs.

d. Under-canopy signs which are parallel to the face of the building shall be a minimum of eight feet above finished grade and shall be deemed to be wall signs.

2. *Canopy sign specifications*. Specifications regulating canopy signs are shown on Table 7.2:

Table 7.2 Canopy sign standards

Zones Allowed*	R4, C1, C2, M1, M2, SC, UC, PUD
Sign Permit Required	Yes
Maximum Number	One per canopy face
Maximum Area	38 square feet
Maximum Width	25 feet
Maximum Height	18 inches
Letter Height	Min. five inches/max. 12 inches
Maximum Valance Height	12 inches
Maximum Projection	20 feet from face of building
Minimum Clearance	12 feet from finished grade
Illumination Allowed	Yes; under canopy and directed downward
*Canopy signs are not permitted in the Residential Conversion or Downtown Commercial character areas within the Mountain Avenue Overlay District	

Figure 7.8 Canopy sign detail

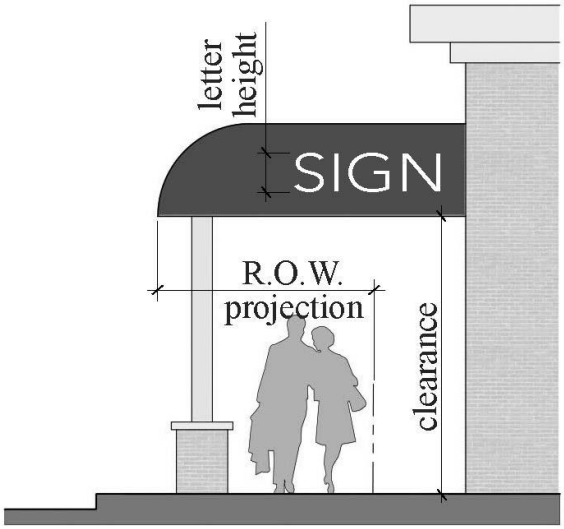


Figure 7.9 Canopy sign example



E. *Monument signs*.

1. *General standards*. The following standards apply to all monument signs:

   a. *Location.*

      i. A monument sign may be located only on a site frontage adjoining a public street.

      ii. No monument sign in any zoning district can be erected closer than eight feet from any curbline, nor closer than four feet to any building.

      iii. No monument signs in any business or industrial district may be located less than 25 feet from any property line adjacent to a residential zoning district line.

   b. *Sign mounting.* The sign shall be mounted on a solid monument-type base. The sign base shall not be greater than 50% of the sign area.

c. *Monument sign design.* The design of a monument sign shall be consistent with the overall scale of the building. The design and placement of the sign shall not obstruct traffic safety sight distance areas.

d. *Monument sign landscaping requirements.*

i. Monument signs shall be landscaped at their base in a way harmonious with the landscape concept for the whole site. Landscaping shall form an attractive, dense cluster at the base of the sign that is equally attractive in winter and summer. A landscape plan for the sign base shall be provided.

ii. Landscaping shall be provided at the base of the supporting structure equal to twice the area of one face of the sign. For example, 20 square feet of sign area equals 40 square feet of landscaped area.

iii. The Planning Commission may reduce or waive this requirement if it is determined that the additional landscaping would not contribute significantly to the overall aesthetic character of the project.

2. *Monument sign specifications*. Specifications regulating monument signs are shown on Table 7.3 and Table 7.4:

Table 7.3 Monument sign standards

Zones Allowed	All, except Downtown Commercial character area within the Mountain Avenue Overlay District
Sign Permit Required	Yes
Maximum Number	OO~~O~~ne per ~~project~~ street frontage, up to a total of two signs, per subdivision or development entrance. One per commercial lot.
Maximum Area: Residential Subidivions ~~Residential Use~~* (height x width)	35 square feet
Maximum Area: Non – Residential and Mixed-use ~~-Use~~s* (height x width)	100 sq. ft.
Maximum Height *	12 feet
Illumination Allowed	Yes; indirect only
*See Table 7.4 for Mountain Avenue Overlay District character areas	

Table 7.4 Monument sign area, height and setbacks– Mountain Avenue Overlay District

	Berthoud West	Residential Conversion	Berthoud East	Agriculture	New Berthoud
Maximum Area	100 square feet	35 square feet	100 square feet	100 square feet	135 square feet

Maximum Height	10 feet	5 feet	10 feet	10 feet	12 feet
Mountain Ave/Highway 56 Setback	5 feet	5 feet	5 feet	10 feet	12 feet
Note: Monument signs are prohibited in the Mountain Avenue Downtown Commercial character district					

Figure 7.10 Monument sign detail

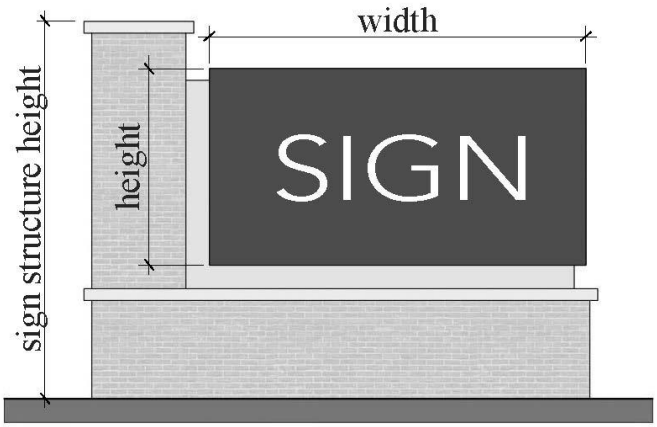


Figure 7.11 Monument sign example: Residential Use

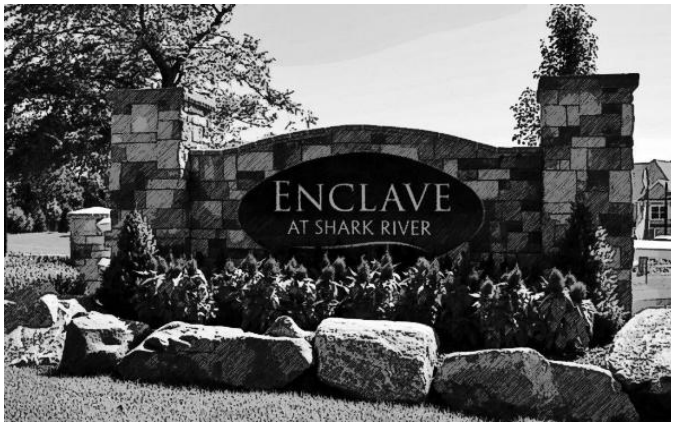
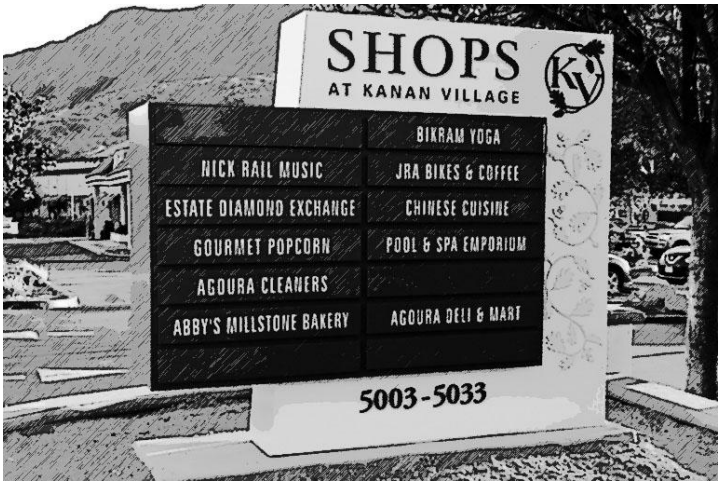


Figure 7.12 Monument sign example: Non-Residential Use



F. *Projecting signs*.

1. *General standards*. The following standards apply to all projecting signs:

   a. Projecting signs shall be placed only on a ground floor facade, except for businesses located above the ground level with direct exterior pedestrian access.

   b. Projecting signs shall be no higher than wall that it projects from or no higher than bottom of second story window framing

   c. Mount projecting signs so that they align with others in the block and fit with architectural details of the structure.

   d. Sign supports and brackets shall be compatible with the design and scale of the sign.

2. *Projecting sign specifications*. Specifications regulating projecting signs are shown on Table 7.5:

Table 7.5 Projecting sign standards

Zones Allowed	R4, C1, C2, SC, UC, M1, M2
Sign Permit Required	Yes
Maximum Number	One per façade; two max.
Maximum Area (height x width)	Six square feet
Maximum Letter Height	10 inches
Maximum Projection	Four feet from face of building
Minimum Clearance	Eight feet from finished grade
Illumination Allowed	Yes; indirect only

Figure 7.13 Projecting sign detail

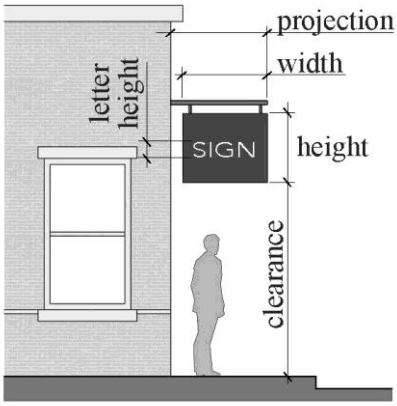
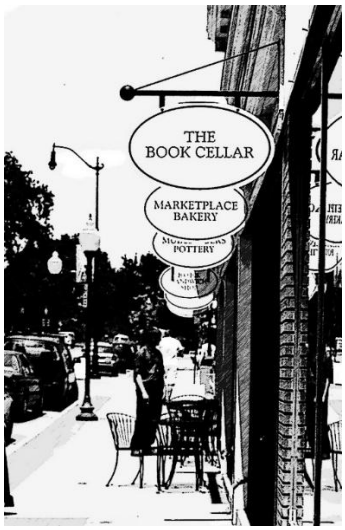


Figure 7.14 Projecting sign example



G. *Wall signs*.

1. *General standards*. The following standards apply to all wall signs:

    a. The sign shall not be placed to obstruct any portion of a window, doorway or other architectural detail.

    b. Wall signs on buildings at the first-floor level are allowed for businesses on higher floors that have a principal entrance on the first floor.

    c. Wall signs plus accessory wall signs shall be in accordance with Section 30-7-109.B *Sign allowance*.

2. *Wall sign specifications*. Specifications regulating wall signs are shown on Table 7.6 and Table 7.7:

Table 7.6 Wall sign standards

Zones Allowed	R4, C1, C2, SC, UC, M1, M2
Sign Permit Required	Yes
Maximum Number	One per street frontage per unit, plus three accessory wall signs
Maximum Area*	Within sign allowance
Maximum Height	No higher than building eave or 25 feet above grade
Maximum Projection	12 inches from face of building
Illumination Allowed	Yes; indirect only
*See Table 7.7 for Mountain Avenue Overlay District character areas	

Table 7.7 Wall sign area – Mountain Avenue Overlay District

	Berthoud West	Residential Conversion	Downtown Commercial	Berthoud East	Agriculture	New Berthoud
Maximum Area	100 square feet	35 square feet	60 square feet	100 square feet	100 square feet	135 square feet

Figure 7.15 Wall sign detail

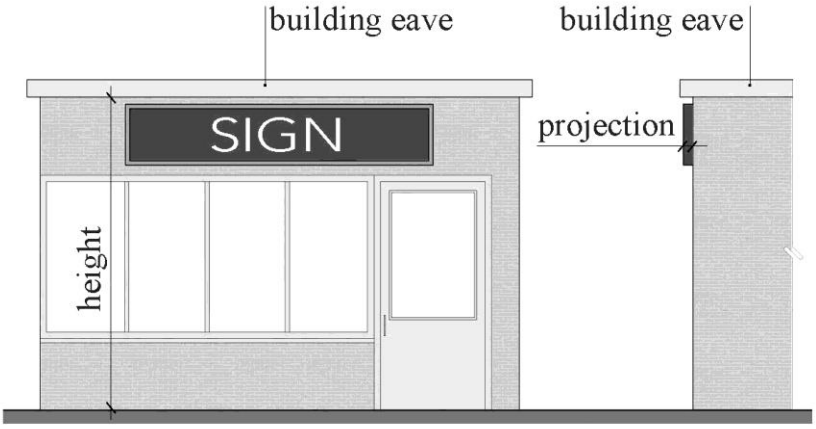


Figure 7.16 Wall sign example



H. *Window signs*.

1. *General standards*. The following standards apply to all permanent window signs:

a. Permanent window signs shall be located only in those windows of the unit or space occupied by a business.

b. Permanent window signs shall not be displayed in windows above the ground floor level.

c. Permanent window signs shall not be animated.

d. When determining the maximum permitted number and the maximum permitted area of permanent signs, temporary window signs shall not be taken into account unless otherwise specified or regulated in this Development Code. However, in no case shall a permanent, temporary, or combination of such window signs cover more than 25 percent of any individual window area.

2. *Window sign specifications*. Specifications regulating window signs are shown on Table 7.8:

Table 7.8 Window sign standards

Zones Allowed	C1, C2, SC, UC, M1, M2
Sign Permit Required	Yes
Maximum Number	Unlimited, within maximum area
Maximum Area	25 percent of any individual window area
Maximum Height	Top of ground floor window
Illumination Allowed	Neon only

Figure 7.17 Window sign detail

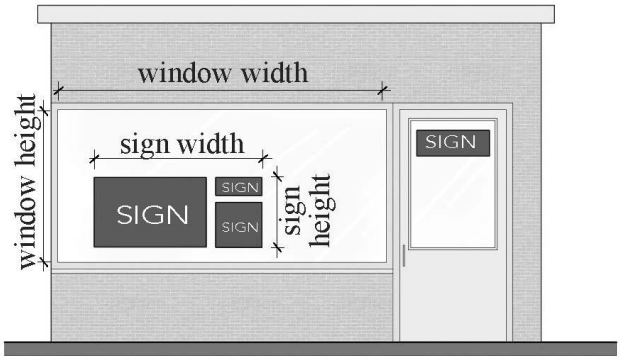


Figure 7.18 Window sign example



30-7-110 Temporary sign standards

A. *Permitted temporary sign types.* The illustrations in Figure 7.19 identify the types of temporary signs permitted per this Section.

1. All temporary signs shall be located off the street right-of-way, unless otherwise granted permission for such location by the Town or the Colorado Department of Transportation (CDOT). In no case may any such sign impede the view or travel of any motorists or pedestrians or be attached to any structure within the right-of-way (i.e., may not be attached to a government sign, telephone pole, etc.).

B. *Duration.* The purpose of temporary signs is to display messages for a temporary duration. Temporary signs shall not be used to circumvent the regulations that apply to permanent signs or to add permanent signage to a property in addition to that which is allowed by these regulations. In general, a temporary sign shall be removed as of the date that:

1. It becomes an abandoned sign;
2. It falls into disrepair; or
3. The expiration of the number of days in the tables below.

Figure 7.19: Temporary Sign Types



C. *Banner signs.*

1. *Special event limitation*. Temporary banner signs are limited to special events as defined in Sec. 30-1-116 Definitions. This limitation also extends to portable signs, promotional tents or other signs not permanently affixed or attached to the ground or to any structure, with the exception of site signs, yard signs and sidewalk signs as regulated in this Section.

2. *General standards.* The following standards apply to all banner signs:

   a. Banner signs shall be erected no sooner than 15 days prior and removed no later than five days after the event.

   b. Banner signs shall be securely attached to the wall of the establishment or light poles on private property.

   c. Wind banner signs shall be securely attached to the ground on private property.

3. *Banner sign specifications*. Specifications regulating banner signs are shown on Table 7.9:

Table 7.9 Banner sign standards

Zones Allowed	All
Sign Permit Required	Yes
Maximum Number	One per street frontage
Maximum Area (height x width)	60 square feet
Illumination Allowed	No
Maximum Time Permitted	15 days; no more than once quarterly per calendar year

Figure 7.20 Banner sign detail – ground mount

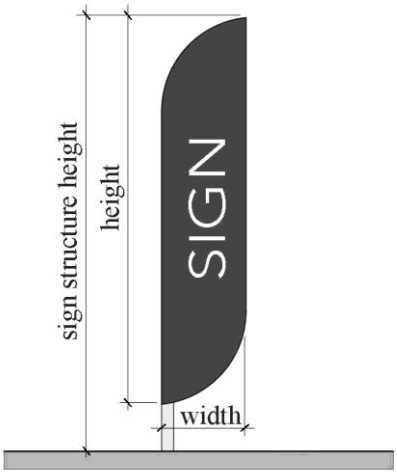


Figure 7.21 Banner sign example – ground mount



Figure 7.22 Banner sign example – wall mount



D. *Sidewalk signs.*

1. General standards. The following standards apply to all sidewalk signs:

   a. A sidewalk sign shall be placed only on the property of the business displaying such sign, or on the adjacent sidewalk. See Section 30-7-111 Off-premise sign standards regarding sign permits issued prior to April, 2024 for off-premise sidewalk signs.

   b. All such signs shall be located off the street right-of-way, unless otherwise granted permission for such location by the Town or the Colorado Department of Transportation (CDOT).

   c. Sidewalk signs must be removed upon close of business each day and may be replaced the following day.

   d. A sidewalk sign shall not obstruct pedestrian or vehicular circulation. Any sidewalk sign that is deemed unsafe for pedestrians or motorists may be removed by the Town.

   e. Sidewalk signs must be anchored to the ground or weighted sufficiently to prevent movement by wind.

2. Sidewalk sign specifications. Specifications regulating sidewalk signs are shown on Table 7.10:

Table 7.10 Sidewalk sign standards

Zones Allowed	C1, C2, SC, UC
Sign Permit Required	Yes
Maximum Number	One
Maximum Area (height x width)	Eight square feet
Maximum Height	48 inches
Maximum Width	24 inches
Min. Pedestrian Clearance	Four feet
Illumination Allowed	No
Maximum Time Permitted	Daily; subject to C. 1.c. above

Figure 7.23 Sidewalk sign detail

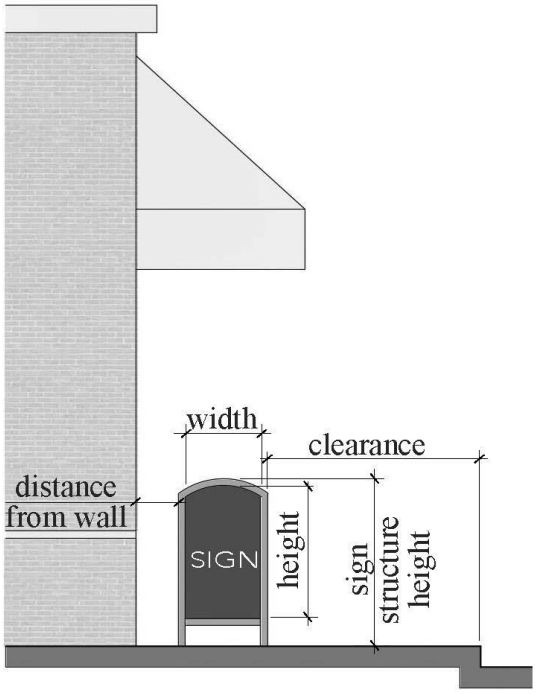


Figure 7.24 Sidewalk sign example



E. *Site Signs.*

1. *General standards.* The following standards apply to all site signs:

   a. Site signs are only allowed on properties with active listings for sale or for rent, or on lots under construction with active building permits, and are not permitted on parcels with existing or built-out residential or non-residential uses.

   b. Only one such sign oriented per street front per premises shall be erected. Any two such signs located on the same premises shall be located at least 100 feet apart as measured using a straight line.

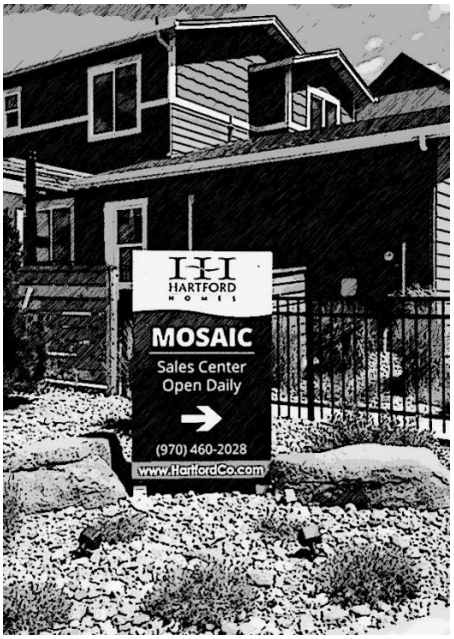
   c. See Sec. 30-5-102 J *Signage* for construction rules and regulations associated with site signs.

2. *Site sign specifications*. Specifications regulating site signs are shown on Table 7.11:

Table 7.11 Site sign standards

Zones Allowed	All
Sign Permit Required	No
Maximum Number	One per street frontage
Maximum Area: Residential Zone	Eight square feet, unless otherwise specified in E. 1. c above
Maximum Area: Non – Residential Zone	32 square feet
Illumination Allowed	No
Maximum Time Permitted	Seven days after active listing or building permit has expired.

Figure 7.25 Site sign example



F. *Yard signs.*

1. General standards. The following standards apply to all yard signs:

a. Yard signs shall not be erected or placed in parks, alleys or in a street or other public right-of way or place.

b. Unless otherwise specified herein, yard signs shall be displayed not more than twice per year per dwelling unit.

c. An unlimited number of yard signs are permitted within 60 days before and five days after any general or special election.

2. *Yard sign specifications*. Specifications regulating yard signs are shown on Table 7.12:

Table 7.12 Yard sign standards

Zones Allowed	All
Sign Permit Required	No
Maximum Number	One per street frontage, unless otherwise specified in F. 1 above
Maximum Area: Residential Use	Eight square feet
Maximum Area: Non – Residential Use	32 square feet
Illumination Allowed	No
Maximum Time Permitted	Five days, or seven days after an active listing has expired, unless otherwise specified in F. 1. above

Figure 7.26 Yard sign examples



30-7-111 Off-Premise sign standards

A. *General requirements.*

1. Off-premises signs, also known as off-site signs, are permitted with a Use by Special Review permit.
2. Off-premises signs shall not:
    a. Interfere with pedestrian or vehicular safety;
    b. Detract from the pedestrian quality of the surrounding area;
    c. Add to an over-proliferation of signs on one property or in an area; or
    d. Measure more than 4 square feet in area, except for sidewalk signs.

B. *Billboard signs*. No new billboard signs are allowed within the Town of Berthoud after May 3, 2012. Billboard signs in existence on May 3, 2012 are considered legal and non-conforming, subject to the requirements of this Code with respect to non-conforming uses.

C. *Off-premise sidewalk signs.* Sign permits issued prior to the effective date of Ordinance 1334~~_____, 2024~~ remain in effect for existing off-premise sidewalk signs associated with businesses located further than one block north or south of Mountain Avenue between 2nd Street and 5th Street, or within the one block dimension but outside of the normal line-of-sight of motorists on Mountain Avenue. After the effective date of Ordinance 1334~~_____, 2024~~ no additional sign permits for off-premise sidewalk signs will be issued. No new off-premise sidewalk signs are allowed.

SECTION 8 MOUNTAIN AVENUE OVERLAY DISTRICT

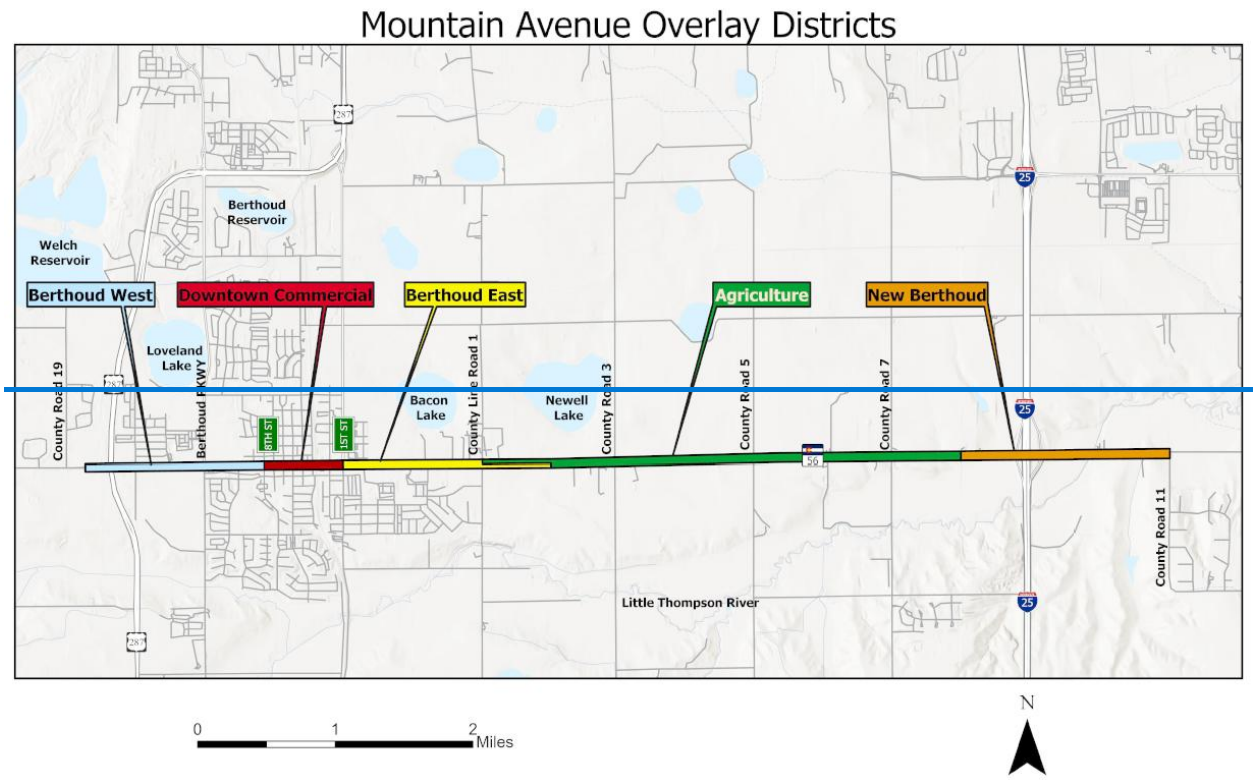
30-8-1013~~-115~~ Mountain Avenue Overlay District

1. *Intent:* The Mountain Avenue Overlay District was developed to protect and enhance the existing historical districts and direct the general character of new development and redevelopment along Mountain Avenue/Highway 56. The overlay district defines and emphasizes unique character districts along the corridor and sets specific guidelines as to architecture, site planning, parking, urban design and streetscapes within this area. The underlying zoning remains, and specific design, architecture and setback requirements are governed by the overlay district. In addition to the requirements of this section, applicants will be required to follow the Mountain Avenue Corridor Design & Signage Plan, the Town of Berthoud Architectural Guidelines and the Town of Berthoud Landscape Guidelines~~The Mountain Avenue Overlay District is a corridor focused on protecting and enhancing the existing historical districts and directing the general character of new development and redevelopment along Mountain Avenue/Highway 56. The overlay district defines and emphasizes unique character districts along the corridor and sets specific guidelines as to architecture, site planning, parking, urban design and streetscapes within this area. The underlying zoning remains, and specific design, architecture and setback requirements are governed by the overlay district.~~

2. *Applicability/Boundaries:*

   a. *Boundary of Mountain Avenue Overlay District.* The boundary of this Mountain Avenue Overlay District (herein referred to as the "Mountain Avenue Overlay District") shall be the area so labeled and depicted in the map below, and as approved in the official zoning map, which is incorporated herein by reference; which generally extends along HWY 56 and is applicable to all properties within 150 feet of the centerline of Hwy 56, Larimer County Road 8, and Weld County Road 44 within Town Limits.





b. *Applicability.* All of the regulations and requirements of this Section shall fully apply when any of the following occur (the property must be brought into full compliance with this Article when any of the following occur):

1. Construction of any new Structure.
2. Parking area reconfiguration (repair and restriping of existing parking lot is exempt).
3. Structural Alterations. Any structural alteration shall follow the Mountain Avenue Overlay District regulations as follows:
    i. *Exterior Walls.* When any change is made to the façade or an exterior wall of an existing structure, all of the façade visible from Mountain Avenue, shall be brought into full compliance with the Mountain Avenue Overlay District found herein.
    ii. *Addition(s):* Any addition must be in full compliance with the Mountain Avenue Overlay.
4. See the Section on Signs in this Mountain Avenue Overlay District regulations as well as the separate Section on Signs in this Chapter.
5. Change of Use. Any change of use will require compliance with applicable standards of the Mountain Avenue Overlay District.

c. *Exemptions:*

1. General property maintenance and/or general property repair, such as roof repairs, interior remodels and repair, paint, and any other non-structural repair, or;

2. The maintenance, repair, upgrading or replacement of any water, sewer, HVAC, or electrical facilities will not trigger a requirement that such property or structure be brought into compliance with the Mountain Avenue Overlay District.

3. Existing single-family homes are exempt from the requirements of this overlay and shall follow the development standards of the underlying zoning district.

d. *Legal Non-conformities.*

1. Except as provided in this District to the contrary; all nonconforming uses, nonconforming structures and nonconforming lots, shall be governed by the Section regarding Nonconformities in this Chapter.

3. *Overlay Requirements—Character Districts.* The 7.75-mile corridor passes through several distinct environments, each with a unique and definable character that separate them from other places along the corridor. These districts are often defined by architecture, land uses, scale, density, streetscapes, and landscaping. This Overlay protects and enhances the character of each district.

4. Use and Dimensional Standards. All applicable development within the Mountain Avenue Corridor shall be in accordance with the land use and dimensional standards found in the *Mountain Avenue Corridor Design & Signage Plan*

A. *Berthoud West Character District.* This is a largely undeveloped district with views of the Rocky Mountains, and in close proximity to downtown and Highway 287. This area is envisioned as a vibrant walkable commercial district with opportunities for shopping, employment and other services. Though this district is in close proximity to the town core, it will build on the unique characteristics of downtown, but not replicate it.

D. *Berthoud East Character District.* A transition district from the rural agrarian areas to the downtown core. The undeveloped land on the south side of Hwy 56 is envisioned as a vibrant walkable residential district with a mixed-use area near the intersection of County Line Road 1 providing opportunities for shopping, dining, employment and other services. Appropriate land use, scale and density transitions from existing residential neighborhoods are critical. he parcels that are located within this district are Tfound on the Mountain Avenue Overlay District map found in this Section. Generally, the boundary is described as from 1st Street to County Line Road 1 on the north side of Mountain Avenue/ State Highway 56 and from 1st Street to one – half mile east of County Line Road on the south side of Mountain Avenue/ State Highway 56.

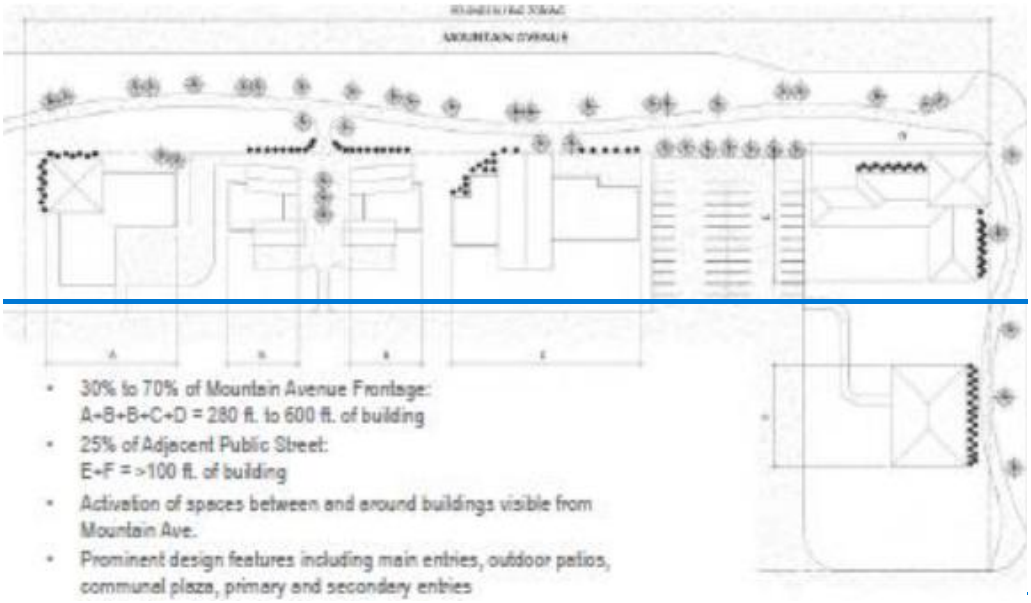
~~1. *District Extent:*~~ This district extends approximately 800 feet west of Hwy 287 and east to 8th Street. Refer to the Mountain Avenue Overlay District map found in this Section.

~~2. *Architecture:*~~

~~*Intent:* As primarily a commuter route with limited business access, high vehicular speeds have been the norm, but are expected to be reduced with development to encourage pedestrians and cyclists. Building location and entry orientation will also play a key role in enhancing the patron's experience.~~

~~a. *Building Façades.* Buildings' façades along Mountain Avenue shall extend along a minimum of 35 percent but not more than 75 percent of the total property frontage and be built to the required setback line with minor variations for façade articulation.~~

~~Figure 3.8: Building Frontage Requirements~~



~~b. *Overall Building Location and Placement of Key Features.*~~

~~i. *Configuration:* Configuration and placement of buildings shall give intentional shape and layout to adjacent exterior gathering spaces and pedestrian/bicycle connections, while being site-specific in response to landscape and hardscape features. "Cookie-cutter" flat-façadefacade buildings that lack articulation and site-specific features will not be allowed. Building placement should follow the principles in Figure 3.9 below.~~

~~ii. *Site Planning:* Modern site planning principles include efforts to combine the infrastructure required to develop from building to building or lot to lot. Sharing infrastructure such as detention, parking, internal pedestrian spaces are strongly encouraged.~~

~~iii. *Staggered Setbacks and Heights:* A variation in building placement by staggering setbacks as well a variation in building heights is required for any multi-tenant site plan or Master Plan.~~

~~iv. *Limited Access:* Limited access directly from Mountain Avenue allows for long stretches of uninterrupted streetscapes, improves traffic flow on Mountain Ave, and increases the need for automobile access to developments from cross-streets and back streets.~~

~~Figure 3.9: Building Placement Example~~



~~c. *Exterior Activation.*~~

~~i. *Requirement for Exterior Activation:* Each building/site planproperty must possess at least one of the following locating the features so they are readily visible to and from Mountain Avenue to ensure a strong visual connection: outdoor patios, primary and secondary entries, canopies and other features help "activate" a development.~~

~~ii. *Screening:* Three-dimensional building elements to act as screening for service type accessories including roof- and ground-mounted HVAC equipment, electrical/gas meters, loading docks/service entries, etc. These service equipment components shall not be visible from the public R.O.W. or from adjacent properties/uses.~~

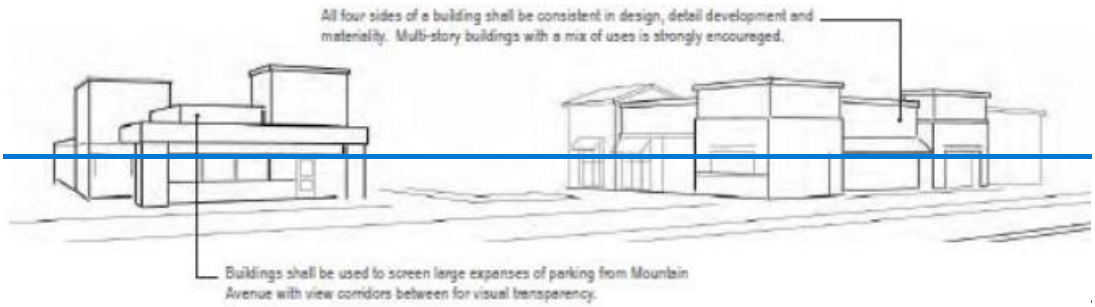
~~d. *Massing and Articulation.*~~

~~i. *Compatibility and Configuration:* A building's three-dimensional configuration plays a significant role in determining the impact it will have on the surrounding environment. The proposed building shall be designed to be compatible with other structures in the surrounding vicinity in size, scale and character. Building mass shall be well-proportioned and organized to define various horizontal and vertical elements while clearly expressing the internal function of the building. See Figure 3.10.~~

ii. *Multiple Buildings:* Multiple buildings in a common commercial development shall be consistent in architectural form/detailing, materials, roof styles and colors to achieve a harmonious design vocabulary and continuity within itself.

iii. *Multi-tenant buildings/Buildings over 60 Feet Long:* Large retail buildings shall be broken down into a series of complementary forms with a clearly defined pattern. Blend larger flat roof areas with smaller pitched roof elements that denote key functions such as entries or primary window groupings. Horizontal step backs of the façadefacade shall be significant in relation to the overall length and scale of the building. For instance, a 60 feet long building should have two to three primary massing elements with at least four feet to six feet of grade plane changes (i.e. eight to ten percent of the overall length). Screening elements for items such as ground-mounted or roof-mounted mechanical equipment shall be integrated into the building design and not appear as an after-thought. Creating large expanses of windows with a branded display wall in close proximity to the glass so that it is readily visible from the exterior is not permitted.

Figure 3.10: Four-Sided Architecture Example



e. *Materials and Colors.*

i. *Exterior Materials:* façadefacade materials shall be high-quality, durable products such as brick, stone or decorative precast concrete. The primary building skin shall be a high-quality, aesthetically pleasing, durable material such as brick, natural stone, manufactured stone, especially at the base of the building that is susceptible to damage by maintenance equipment such as plows, shovels, mowers, etc.

ii. *Primary Material:* The primary material shall constitute at least 65 percent of the total wall area for the front and side façadesfacades visible from Mountain Avenue and at least 50 percent for the rear façadefacade; excluding the glazing area of the façade.

iii. *Glazing:* Exterior glazing shall be high-performance clear glass (not tinted or reflective) with a low-E coating and visible light transmittance (Tvis) of 60 percent or higher. Use of opaque/spandrel glass to simulate ground-level vision windows is discouraged. Creating large expanses of windows with a branded display wall in close proximity to the glass so that it is readily visible from the exterior is not permitted.

iv. *Secondary façadefacade materials:* may include cement-based stucco, hardboard siding or decorative metal panels with concealed fasteners and low-gloss finish.

Figure 3.11: Façade Examples



v. *Screening elements:* such as site walls for parking lots and trash enclosures shall be of the same high-quality durable material as the primary building skin.

vi. *Primary Façade Colors:* Primary building façadefacade colors shall be non-reflective, muted neutral or earth tones with only small "pops" of bright, higher intensity colors. High-gloss, metallic finishes or fluorescent colors are not allowed.

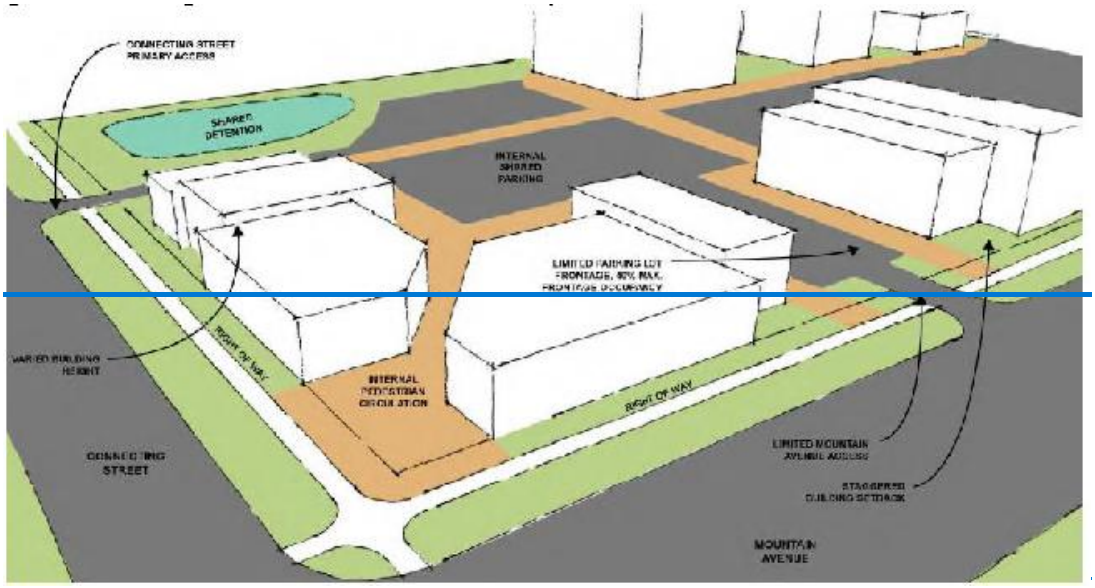
3. *Parking:*

a. *Parking:* On-street diagonal parking is proposed on Gateway Park Blvd within the proposed village center. To reduce its visual presence on Mountain Avenue, required parking shall be located behind and between buildings. Required parking areas shall not occupy more than 40 percent of the Mountain Avenue frontage and must not be forward of any building or structure. In addition, such parking areas shall be screened by a landscape hedge, wrought iron fence, or wall as detailed in Table 3.4.

b. *Drive ThruDrive through Areas:* Restaurant and bank drive-thrusthrough areas shall be oriented away from Mountain Avenue and shall only be accessed by a rear access drive, with no visible drive-thruthrough areas fronting Mountain Avenue, as described in Table 3.4.

c. *Shared Parking:* New off-street parking lots should be shared to reduce the overall footprint of paved parking areas and be tucked behind and between buildings to minimize their visual presence.

Figure 3.12: Parking and Pedestrian Circulation Examples



4. *Signage:*

Refer to the Sign Section in this Chapter for specific signage requirements.

Table 3.4 Berthoud West Character District Dimensional Standards

Mountain Avenue Development Criteria		
Description		Berthoud West
	Density and Lot Coverage	Per Underlying Zoning
A	Building Height[5]	Maximum: 3 Stories (40 feet)
B	Minimum Lot Width	Per Underlying Zoning
	Building Orientation	Parallel to Front lot line
Building Setbacks		
C	Mountain Ave / Highway 56[6,7]	14 ft. min, 20 ft. max
D	Secondary or side street	20 ft. min[8]
E	Side yard (3 stories)	10 ft. min
E	Side yard (2 Stories)	Per Underlying Zoning
E	Side yard (1 Story)	Per Underlying Zoning
F	Rear	Per Underlying Zoning
G	Rear Alley	Per Underlying Zoning
Off-Street Parking and Driveway Setbacks		
H	Mountain Ave / Highway 56[9]	20 ft min. or 5 ft greater than building setback, whichever is greater
I	Secondary or side street	20 ft. min
J	Side yard	5 ft. min 0 ft. if shared
K	Rear	5 ft. min 0 ft. if shared
	Max parking and driveway frontage[4]	40% of lot frontage
Mountain Avenue ROW Encroachments		
	Outdoor dining areas and display areas	0 ft.
	Awnings	0 ft.
	Balconies	0 ft.

	Bay windows and building projections	0 ft.
	Building eaves	0 ft.
	Patio cover roof	0 ft.

Notes:

1. The ground floor front façade may be recessed/setback to accommodate outdoor dining and or display areas, and such areas shall have a zero-foot setback.
2. A six-foot minimum unobstructed clear zone shall be provided within the ROW around outdoor dining areas for pedestrian circulation.
3. Balconies, bay windows, and other building projections extending in and to the public ROW shall provide a ten-foot minimum vertical clearance above the sidewalk elevation or finished grade.
4. Off street parking areas and driveways fronting Mtn Avenue/Hwy 56 and/or secondary side streets shall be screened from view from the Public ROW. Screening shall be three feet min. in height and shall be accomplished with berms, low walls, plantings, etc. Wall materials shall match materials used on the associated building. Wood fences are not allowed.
5. Small tower elements and roof forms/parapet walls associated with primary building areas may exceed the maximum building height by 15 percent.
6. Permanent features such as steps, ramps, landings, and uncovered porches shall not extend more than 40 percent into the required setback.
7. Front setbacks abutting Mountain Avenue/HWY 56 shall be measured from the edge of the ROW.
8. Zero-foot setbacks are allowed for buildings fronting Gateway Park Blvd located at the proposed village center.
9. Drive-through windows shall not be oriented towards Mountain Avenue and shall be located only at the rear of the building, and not fronting Mountain Avenue/HWY 56.

B.

2.

B. *Downtown Commercial Character District.* Berthoud's Downtown District represents a concentration of character and personality, and shapes much of the Town's identity. Its buildings give a sense of history, its businesses and restaurants show the liveliness of the town, and its quirks set it apart from other towns in Northern Colorado.

1. *District Extent:* The Downtown Commercial character district extends along Mountain Avenue between 7th Street and 1st Street in the downtown area. Refer to the Mountain Avenue Overlay District map found in this Section

2. *Architectural Guidelines:*

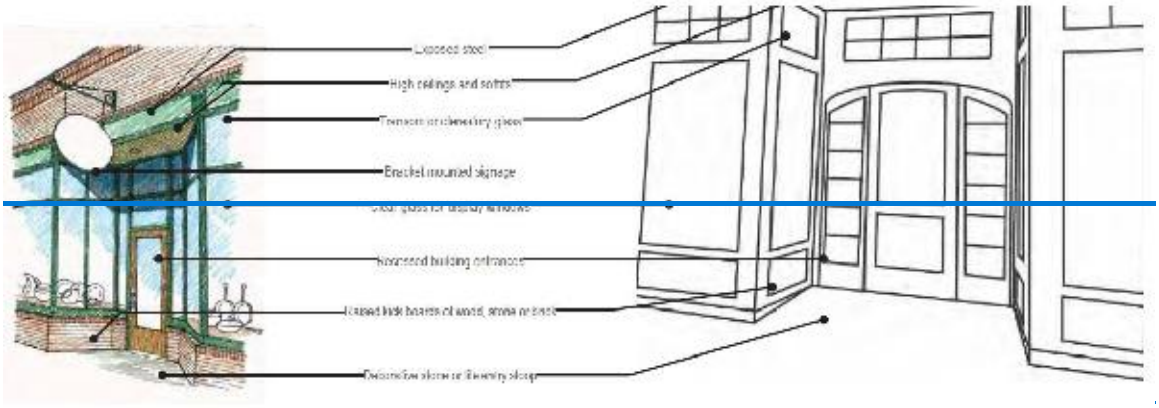
a. *Ground level storefronts:* Ground level retail storefronts are indicative of the mercantile economy of historic downtowns of the late 19th and early 20th centuries. They often feature formal, symmetrical façadesfacades, large expanses of display windows flush with the building front walls, recessed entrances and decorative glass transoms. Such storefronts should possess the following characteristics as depicted in Figure 3.156 and as described below:

i. Retail storefronts create an intimate, pedestrian scale along the street, encouraging residents to slow down, interact and window shop.

ii. Primarily glazed, ground level storefronts create a distinction between the public retail façadefacade and the more private areas of the upper levels, often expressed by individual punched window openings.

iii. The higher ceilings of historic, ground level retail storefronts have a character not often found in more modern construction.

Figure 3.15: Ground Level Storefront Example



b. *Infill development/Design:* Communities are encouraging infill development of vacant downtown properties and redevelopment of inappropriate or underutilized buildings to revitalize their historic downtowns. Designed properly, new construction can blend seamlessly with original, historic buildings to create a vibrant downtown environment.

i. Maintain natural materials and colors that often utilize local materials and represent the workmanship of local craftsmen. Modern metal siding and other industrial materials are inappropriate as primary façadefacade materials in the historic downtown area.

ii. New infill development shall not mimic the exact historic designs and details of existing structures but pick up on the rhythm and spacing of elements to be compatible with and complementary to them.

iii. Orient building parallel to street and align front façadefacade with established sidewalk edge.

iv. If a portion of the building must be set back, use traditional urban site features to maintain defined sidewalk edge noted above

v. Create a clearly defined front entry recessed at least three feet so out-swinging doors do not project into the perpendicular circulation path

vi. Predominate massing at the front property line should be one- or two-stories with setbacks for additional stories

vii. Floor-to-floor heights shall appear to be consistent with heights traditionally seen in older adjacent buildings

viii. Building Materials: Utilize similar high-quality, durable materials such as brick or stone with only accents of more modern materials

c. *Building Awnings:* Awnings have been used for centuries to shade the façadesfacades and display windows of buildings and provide residents with protection from the elements. Awnings also provide a unifying design element to enhance the downtown streetscape and provide opportunities for colorful accents and signage.

i. Awnings Encouraged: Awnings are encouraged on all development.

ii. Awnings should be consistent with primary building, and color should accent the primary building. On-Street Parking:

3. *Parking and Access:*

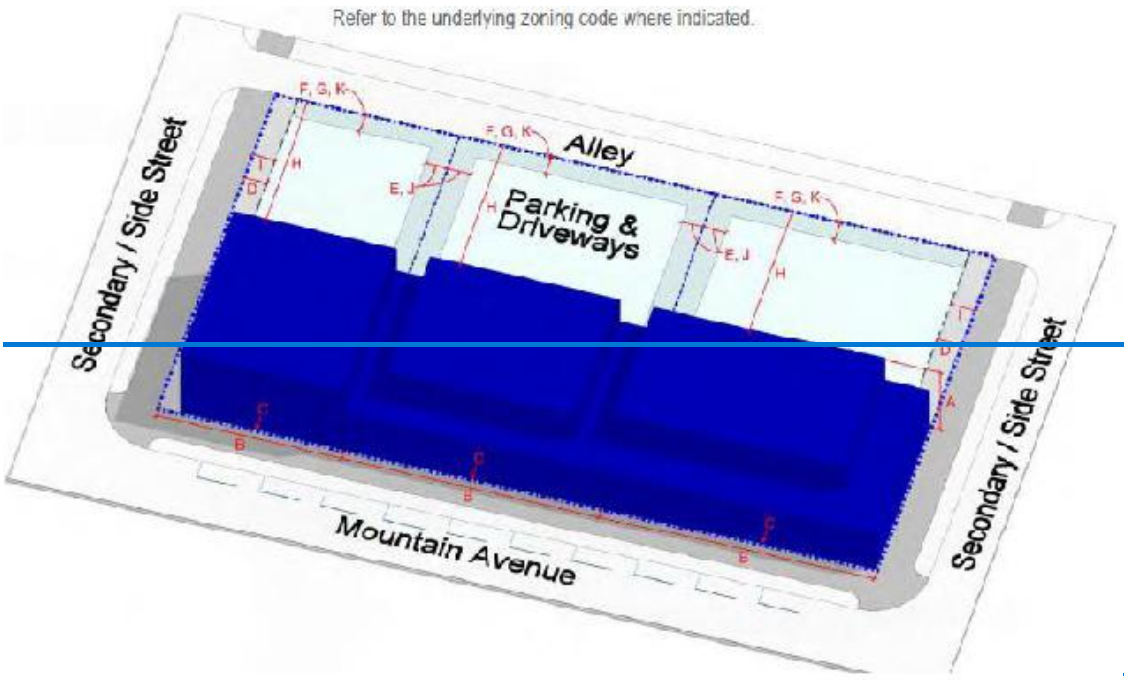
a. On-site parking areas shall be located at the rear of any building as depicted on Figure 3.165.

b. Curb Cuts: No new curb cuts from Mountain Avenue shall be allowed.

c. Drive-throughThru Areas: Restaurant and bank drive-through areasthrus are not permitted.

d. Shared Parking: New off-street parking lots should be shared to reduce the overall footprint of paved parking areas and be tucked behind and between buildings to minimize their visual presence.

Figure 3.16: Parking and Access Examples



4. *Signage:*

a. In general, building mounted signs are recommended in this district. This includes wall mounted signs, window signs, and awning signs. The type, scale and style of the signage should be designed to complement the character of this district and the building that the sign is associated with.

b. Sidewalk Signs: Please see Section 30-7-110

c. Monument signs are prohibited in this district.

d. See Section 7 Signs for additional signage requirements.

Table 3.6 Downtown Commercial Character District Dimensional Standards

Mountain Avenue Development Criteria		
Description		Downtown Commercial
	Density and Lot Coverage	Per Underlying Zoning
A	Building Height[5]	Maximum: 3 Stories (40 feet) Minimum: 2 Stories (20 feet)
B	Minimum Lot Width	Per Underlying Zoning
	Building Orientation	Parallel to Front lot line
Building Setbacks		
C	Mountain Ave / Highway 56[6,7]	0 ft. min, 10 ft. max[1]
D	Secondary or side street	0 ft. min, 10 ft. max[1]
E	Side yard (3 Stories)	0 ft.
E	Side yard (2 Stories)	0 ft.
E	Side yard (1 Story)	0 ft.
F	Rear	Per Underlying Zoning
G	Rear Alley	Per Underlying Zoning
Off-Street Parking and Driveway Setbacks		
H	Mountain Ave / Highway 56[9]	Behind building, not accessed from Mountain Avenue
I	Secondary or side street	5 ft. min
J	Side yard	0 ft. min
K	Rear	0 ft. min
	Max parking and driveway frontage[4]	0%
Mountain Avenue ROW Encroachments		
	Outdoor dining areas and display areas	8 ft. max[2]
	Awnings	6 ft. max
	Balconies	4 ft. max[3]
	Bay windows and building projections	2 ft. max
	Building eaves	2 ft. max
	Patio cover roof	2 ft. max.

Notes:

1. The ground floor front façade may be recessed/setback to accommodate outdoor dining and or display areas, and such areas shall have a zero-foot setback.
2. A six-foot minimum unobstructed clear zone shall be provided within the ROW around outdoor dining areas for pedestrian circulation.
3. Balconies, bay windows, and other building projections extending in and to the public ROW shall provide a ten-foot minimum vertical clearance above the sidewalk elevation or finished grade.
4. Off-street parking areas and driveways fronting Mtn Avenue/Hwy 56 and/or secondary side streets shall be screened from view from the Public ROW. Screening shall be three feet min. in height and shall be accomplished with berms, low walls, plantings, etc. Wall materials shall match materials used on the associated building. Wood fences are not allowed.
5. Small tower elements and roof forms/parapet walls associated with primary building areas may exceed the maximum building height by 15 percent.
6. Permanent features such as steps, ramps, landings, and uncovered porches shall not extend more than 40 percent into the required setback.
7. Front setbacks abutting Mountain Avenue/HWY 56 shall be measured from the edge of the ROW.
8. Zero-foot setbacks are allowed for buildings fronting Gateway Park Blvd located at the proposed village center.

~~9. Drive-through windows shall not be oriented towards Mountain Avenue and shall be located only at the rear of the building, and not fronting Mountain Avenue/HWY 56.~~

D~~C~~. *Berthoud East Character District.* A transition district from the rural agrarian areas to the downtown core. The undeveloped land on the south side of Hwy 56 is envisioned as a vibrant walkable residential district with a mixed-use area near the intersection of County Line Road 1 providing opportunities for shopping, dining, employment and other services. Appropriate land use, scale and density transitions from existing residential neighborhoods are critical.

~~1. *District Extents:*~~ The parcels that are located within this district are found on the Mountain Avenue Overlay District map found in this Section. Generally, the boundary is described as from 1st Street to County Line Road 1 on the north side of Mountain Avenue/ State Highway 56 and from 1st Street to one – half mile east of County Line Road on the south side of Mountain Avenue/ State Highway 56.

~~2. *Architectural Guidelines for Berthoud East District:* Similar to the Berthoud West District, the "East District" focuses on building massing and articulation, and to carefully balance economic interests with the public good by ensuring strong pedestrian and bicycle connectivity with the downtown and residential districts to the west.~~

~~a. *Scale and Density Focus.*~~

~~i. Multi-story, mixed use buildings will be encouraged in the denser mixed-use areas immediately adjacent to Mountain Avenue and then taper off in height, size and intensity of use as development extends further away from the overlay district.~~

~~ii. Long façadesfacades shall be broken down into smaller architectural expression through stepping. Stepping can be accomplished in both building elevation and in plan. Third story step-backs provide a gradual scale transition between building heights and opportunities for rooftop patio space.~~

~~Figure 3.17: Stepping Examples~~



~~b. *Building Materiality.* Buildings are meant to convey a sense of permanence and vitality with the use of appropriate materials reinforcing this goal. Materials should be predominantly brick, stone and architectural concrete with accents of wood, stucco or metal wall panels. Variation in materiality is encouraged but should be limited to a maximum of four materiality changes over the total building façadefacade.~~

~~i. Recommended percentage of material variation is as follows:~~

~~50 percent to 60 percent — Masonry veneer (brick or stone), architectural concrete~~

~~ii. Up to three accent materials required:~~

~~15 percent to 20 percent — Accent material 'A' (wood, stucco or metal wall panel)~~

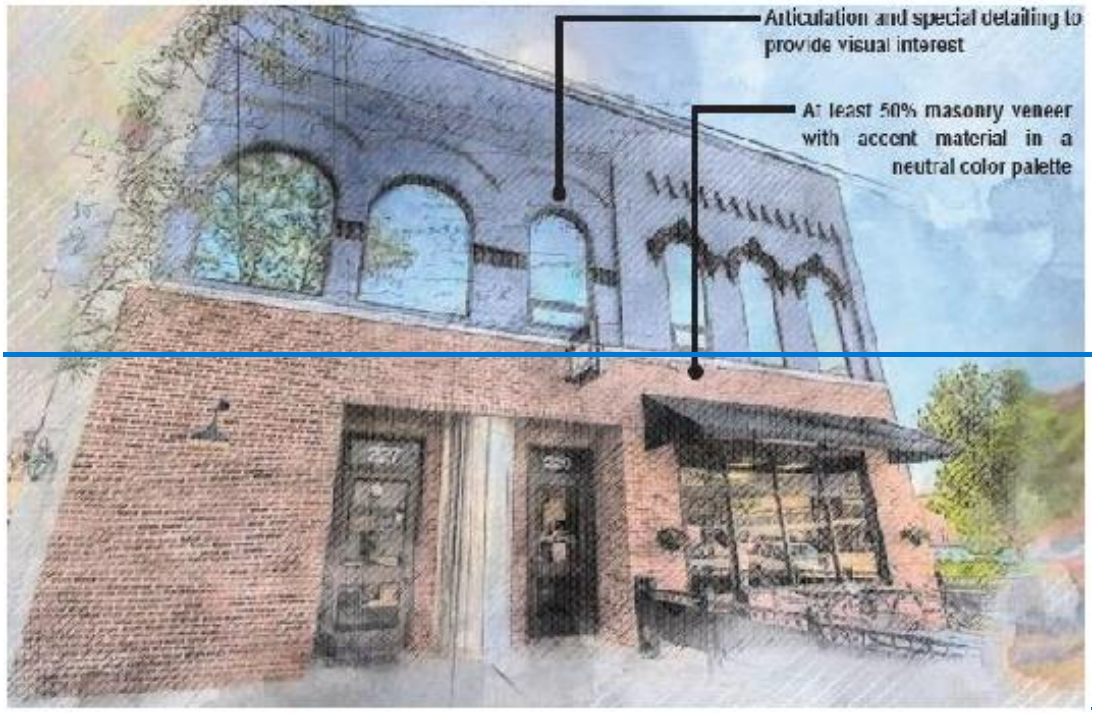
~~15 percent to 20 percent — Accent material 'B' (wood, stucco or metal wall panel)~~

~~15 percent to 20 percent — Accent material 'C' (wood, stucco or metal wall panel)~~

~~iii. Articulation and special detailing that provides visual interest and breaks up large expanses of a single building material is supported.~~

~~iv. Color: Color palettes should be primarily of neutral tones with pops of accent color. Accent color and location are to be reviewed and approved with the Site Plan approval process.~~

~~Figure 3.18: Materiality Examples~~



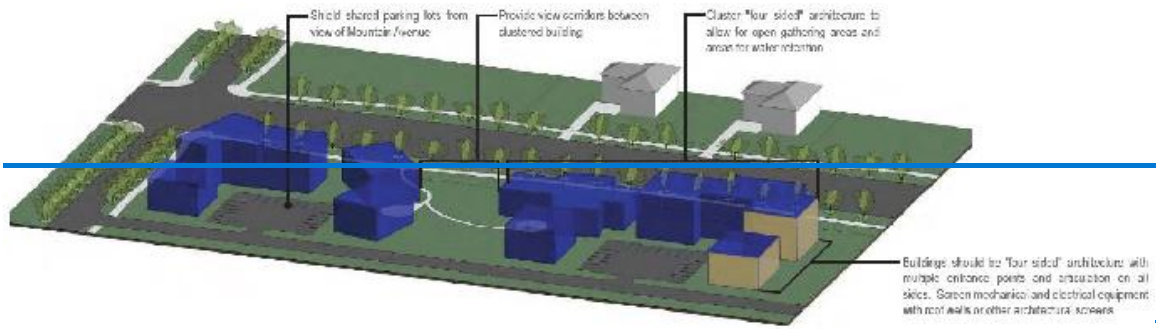
c. ~~*Balancing Developed Spaces:* Shaping multiple buildings into dense clusters of development, formed around pedestrian and bicycle pathways while leaving reasonable expanses of open areas, will provide view corridors from Mountain Avenue and allow space for water retention.~~

i. ~~Buildings shall define a strong street edge with upper floor step back and architectural embellishments at corners and main entry features.~~

ii. ~~Buildings shall be oriented on front edge of setback to Mountain Avenue to allow parking in the rear. This provides for a more aesthetic streetscape by screening parking from Mountain Avenue.~~

iii. ~~Provide "four-sided" architecture with multiple entrance points or articulation and mechanical and electrical equipment screening. All mechanical equipment is to be screened from views from across the street and/or middle of intersections or adjacent properties, whichever is further.~~

Figure 3.19: Four Sided Architecture



d. *Materials and Colors.*

i. Exterior façadefacade materials shall be high-quality, durable products such as brick, stone or decorative precast concrete.

ii. The primary building façadefacade shall be of high-quality durable materials such as brick/stone veneer or decorative precast concrete, especially at the base of the building that is susceptible to damage by maintenance equipment such as plows, shovels, mowers, etc.

iii. The primary material shall constitute at least 70 percent of the total wall area for the front and side façadesfacades visible from Mountain Avenue and at least 50 percent for the rear façadefacade; excluding glass.

iv. Exterior glazing shall be high-performance clear glass (not tinted or reflective) with a low-E coating and visible light transmittance (Tvis) of 60 percent or higher. Use of opaque/spandrel glass to simulate ground-level vision windows is discouraged. Creating large expanses of windows with a branded display wall in close proximity to the glass so that it is readily visible from the exterior is not permitted.

v. Secondary façadefacade materials can include cement-based stucco, hardboard siding or decorative metal panels with concealed fasteners.

vi. Screening elements such as site walls for parking lots and trash enclosures shall be of the same high-quality durable material as the primary building skin.

vii. Primary building façadefacade colors shall be non-reflective, muted neutral or earth tones with only small "pops" of bright, higher intensity colors. Metallic or fluorescent colors are not allowed. Trademark colors specific to a corporate brand shall only be permitted on building signage subject to the sign code.

3. *Parking:*

a. *Parking:* Required parking shall be located behind and between buildings. Only 40 percent of required on-site parking may be allowed along Mountain Avenue frontage and shall not be forward of any building or structure. In addition, such parking areas shall be screened by a landscape hedge, wrought iron fence, or wall as detailed in Table 3.5.

b. *Drive-throughThru Areas:* Restaurant and bank drivedrive through areasthrus are not permitted.

c. *Shared Parking:* New off-street parking lots should be shared to reduce the overall footprint of paved parking areas and be tucked behind and between buildings to minimize their visual presence.

~~4. *Signage:*~~

~~a. Building mounted signs and ground mounted monument signs with horizontal massing are preferred.~~

~~b. See Section 7 Signs for additional signage requirements.~~

E. *Agricultural Character District.* Farms, big skies, distant views, and scattered farmsteads provide a pleasant separation between Interstate 25 and the Town which adds to Berthoud's small-town appeal. The primary goal of this district is to retain the rural and agrarian character and to protect the iconic views to the Rocky Mountains.

~~1. *District Extents:*~~ The Agriculture Character District extents vary on the north and south frontages. Refer to the Mountain Avenue Overlay District map found in this Section. In general, the District extends from County Line Road 1 to one-half mile west of Interstate 25 on the north side of Mountain Avenue/ Highway 56 and one-half mile east of County Line Road 1 to one-half mile west of Interstate 25 on the south side of Highway 56.

~~2. *Agricultural Character District Architectural Guidelines:* The architectural style of this area is of an agricultural or farmstead nature. It is recommended that all new development compliment this agricultural/farmstead nature.~~

~~a. Building materials should be of residential grade and include cement-based stucco, hardboard siding, brick, stone, or decorative metal panels with concealed fasteners.~~

~~b. Roof lines should be of gable end, hip, and valley styles, with dormers, and shed roofs. Clay and concrete tiles are not encouraged.~~

~~c. Primary Building Façade Colors shall be non-reflective, muted neutral or earth tones, with limited accent colors. Metallic or fluorescent colors are prohibited.~~

~~Figure 3.20: Examples of Agricultural Style Development~~



~~3. *Signage:*~~

~~a. Building mounted signs and ground mounted monument signs with horizontal massing are preferred.~~

~~bc. Please see Section 7 Signs for additional signage requirements.~~

Figure 3.21: Agricultural Character Setback Graphic

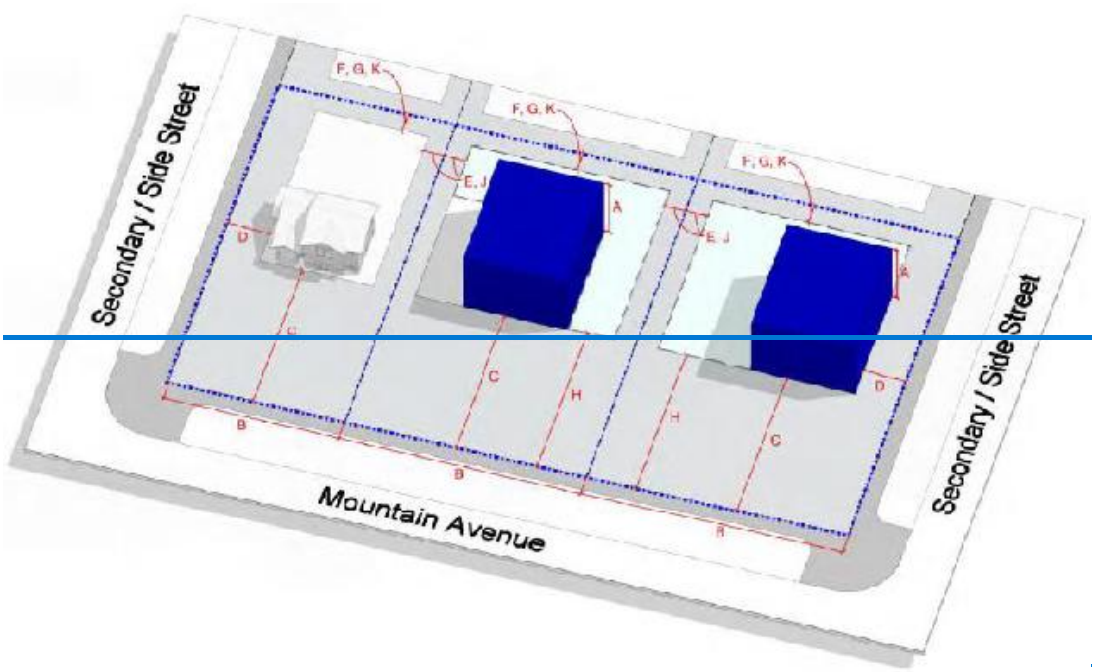


Table. 3.7 Agricultural Character District Dimensional Standards

Mountain Avenue Development Criteria		
Description		Agriculture
	Density and Lot Coverage	Per Underlying Zoning
A	Building Height[5]	Maximum: 2 Stories (35 feet)
B	Minimum Lot Width	Per Underlying Zoning
	Building Orientation	Parallel to Front lot line
Building Setbacks		
C	Mountain Ave / Highway 56[6,7]	80 ft. min
D	Secondary or side street	20 ft. min
E	Side yard (3 Stories)	NA
E	Side yard (2 Stories)	Per Underlying Zoning
E	Side yard (1 Story)	Per Underlying Zoning
F	Rear	Per Underlying Zoning
G	Rear Alley	Per Underlying Zoning
Off-Street Parking and Driveway Setbacks		
H	Mountain Ave / Highway 56[9]	80 ft. min
I	Secondary or side street	
J	Side yard	5 ft. min, 0 ft. if shared
K	Rear	5 ft. min, 0 ft. if shared
	Max parking and driveway frontage[4]	40% lot frontage
Mountain Avenue ROW Encroachments		
	Outdoor dining areas and display areas	0 ft.
	Awnings	0 ft.
	Balconies	0 ft.
	Bay windows and building projections	0 ft.

	Building eaves	0 ft.
	Patio cover roof	0 ft.

Notes:

1. The ground floor front façade may be recessed/setback to accommodate outdoor dining and or display areas, and such areas shall have a zero-foot setback.
2. A six-foot minimum unobstructed clear zone shall be provided within the ROW around outdoor dining areas for pedestrian circulation.
3. Balconies, bay windows, and other building projections extending in and to the public ROW shall provide a ten-foot minimum vertical clearance above the sidewalk elevation or finished grade.
4. Off street parking areas and driveways fronting Mtn Avenue/Hwy 56 and/or secondary side streets shall be screened from view from the Public ROW. Screening shall be three feet min. in height and shall be accomplished with berms, low walls, plantings, etc. Wall materials shall match materials used on the associated building. Wood fences are not allowed.
5. Small tower elements and roof forms/parapet walls associated with primary building areas may exceed the maximum building height by 15 percent.
6. Permanent features such as steps, ramps, landings, and uncovered porches shall not extend more than 40 percent into the required setback.
7. Front setbacks abutting Mountain Avenue/HWY 56 shall be measured from the edge of the ROW.
8. Zero-foot setbacks are allowed for buildings fronting Gateway Park Blvd located at the proposed village center.
9. Drive thruthrough windows shall not be oriented towards Mountain Avenue, and shall be located only at the rear of the building, and not fronting Mountain Avenue/HWY 56.

F. *New Berthoud Character District.* New Berthoud straddles the I-25/Hwy 56 interchange and is the gateway into Town. The lasting impression should relate to "Berthoud Proper" and offer a fresh new twist.

1. *District Extent:* The New Berthoud Character District extends one-half mile west of Interstate 25 to County Road 11. Refer to the Mountain Avenue Overlay District map found in this Section

SECTION 9 INNOVATION DISTRICT OVERLAY STANDARDS

30-9-101 1st Street Corridor Overlay District

A. *Intent.* The 1st Street Corridor Overlay District was developed to create an Innovation Distrcit within Berthoud that is distinct and unique in its form and functions from other areas in Town. The focus~~es~~ of this Overlay is to ~~on~~ direct~~ing~~ the general character of new development and redevelopment within the Overlay District boundaries in ~~the 1st Street corridor, in accordance with the 1st Street Corridor Plan~~accordance with the plan adopted by Resolution 2023-09. Where conflicts exist between the 1st Street Overlay District and the remainder of the Berthoud Municipal Code and in particular Chapter 30, the language and intent of the 1st Street Overlay District shall take precedence. This includes architecture, site planning, the development of infrastructure and road cross sections.

B. *Boundaries.*

1. *General.* The boundary of this 1st Street Corridor Overlay District (herein referred to as the 1st Street Overlay) shall be the area so labeled and depicted in the Figure below ~~Figure 3.24~~, and as approved in the official zoning map, which is incorporated herein by reference. The 1st Street Overlay is applicable to all properties within the 1st Street corridor within Town Limits.

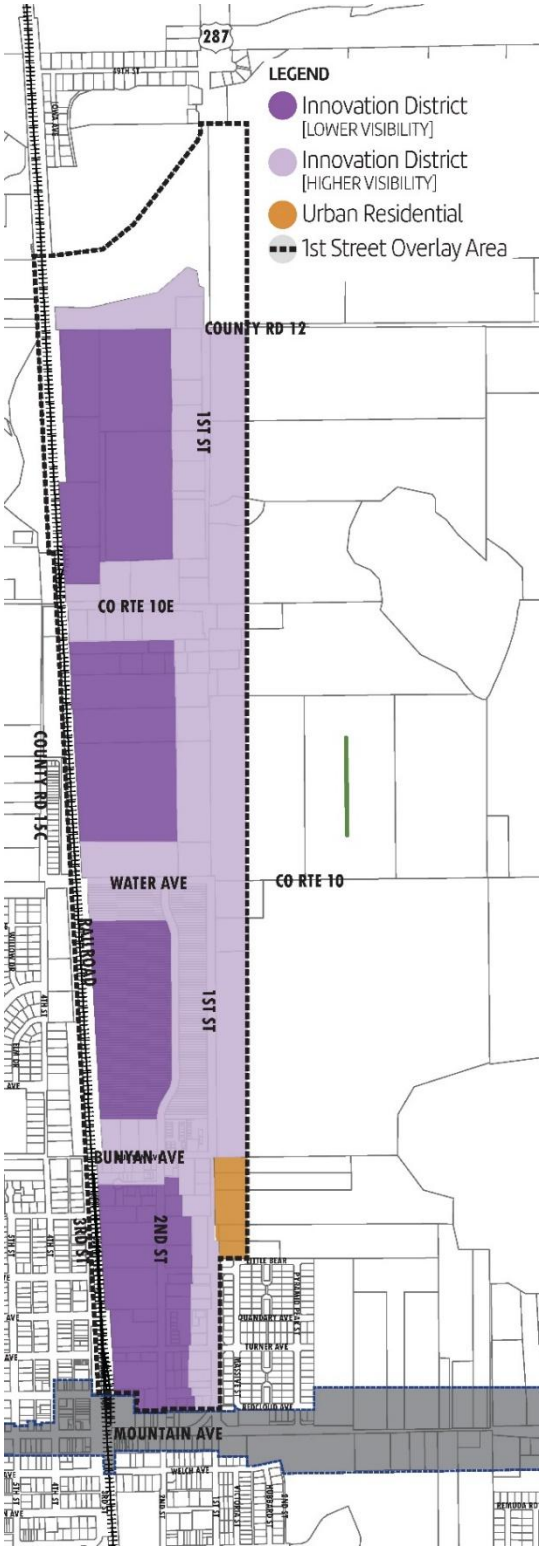
2. *Districts.* As depicted in the Figure below ~~Figure 3.24~~, the 1st Street Overlay is comprised of two Character Districts: t~~T~~he Innovation District and the Urban Residential District. The Innovation District is a distinct business district encompassing a majority of the 1st Street Overlay area. The Urban Residential District supports potential commercial and employment opportunities in the Innovation District.

3. *Visibility Areas.* As depicted in the Figure below~~in Figure 3.24~~, the Innovation District is comprised of a Higher Visibility Area and a Lower Visibility Area.

    a. Higher Visibility Areas are defined within 300 feet of the centerline of 1st Street, Bunyan Avenue, Water Avene, CR10, CR10E, and CR12.

    b. Lower Visibility Areas are the remaining areas outside the Higher Visibility Areas.

Innovation District Overlay Boundaries



C. *Applicability.* All of the regulations and requirements of this Section shall fully apply when any of the following occur on property within the 1st Street Overlay:

1. Construction of any new principal structure.

2. Parking area reconfiguration.

3. Structural Alterations. Any structural alteration shall follow the 1st Street Overlay regulations as follows:

    a. Exterior Walls. When a change is made affecting ten percent (10%) or more of the ~~ny change is made to the~~ façade or an exterior wall of an existing structure within a Higher Visibility Area, all of the façade shall be brought into full compliance with the 1st Street Overlay found herein.

    b. Addition(s): Any addition to an existing structure which expands the original structure footprint by ten percent (10%) or more within a Higher Visibility Area must be in full compliance with this 1st Street Overlay.

4. Sign Permits. The ~~Any~~ expansion, change, or removal and replacement of an~~y~~ existing sign~~age~~ shall require the sign to ~~shall~~ be brought into compliance with the Development Code Section regarding ~~7~~ Sign regulations.

5. Change of Use. Any change of use resulting in increased traffic, parking requirements, demand on utilities, lighting, or other site – specific modification will necessitate land development review and require compliance with applicable standards of this Code and the 1st Street Overlay regulations.

D. *Exemptions.* The following exemptions to the regulations and requirements of this Section are applicable to property within the 1st Street Overlay:

1. General property maintenance and/or general property repair, such as roof repairs, interior remodels and repair, exterior painting, parking lot repair/restriping, and any other non-structural repair, or;

2. The maintenance, repair, upgrading or replacement of any water, sewer, HVAC, or electrical facilities will not trigger a requirement that such property or structure be brought into compliance with this 1st Street Overlay.

3. Existing single-family residential uses are exempt from the requirements of this 1st Street Overlay and shall follow the development standards of the underlying zoning district.

E. *Legal Nonconformities.* Except as provided in this 1st Street Overlay to the contrary; all nonconforming uses, nonconforming structures and nonconforming lots, shall be governed by the ~~Section 30-3-107 *Nonconforming use/buildings*~~ section of this Chapter.

F. *Architectural Standards/Guidelines.* All applicable development within the 1st Street Overlay shall be in accordance with the architectural standards of this Code and the Architectural Design Guidelines.

1. All applicable development within the Urban Residential District shall be in compliance with the ~~Section 30-2-116 *Residential design standards*~~ section of this Chapter.

    a. During the land development approval process, and specifically the sections regarding ~~Section 30-6-112 *Site plan*~~ and ~~Section 30-3-106 *Use by Special Review*~~ applications in this Chapter as applicable, an applicant proposing development within the Urban Residential District shall illustrate how the development will comply with the requirements set forth in the Architectural Design Guidelines for the Urban Residential Character District.

2. All applicable development within the Innovation District shall be in compliance with ~~Section 30-2-117 *Commercial and industrial standards*~~ section of this Chapter.

    a. During the land development approval process, and specifically the sections of the ~~Land~~ Development Code regarding ~~Section 30-6-112 *Site plan*~~ and ~~Section 30-3-106 *Use by Special Review*~~ as applicable, an applicant proposing development within a Higher Visibility area

shall illustrate how the development will comply with the requirements set forth in the Architectural Design Guidelines for the Urban Industrial Character District.

b. During the land development approval process, and specifically the s~~S~~ections regarding ~~30-6-112~~ *Site plan* and ~~Section 30-3-106~~ *Use by Special Review* permits as applicable, an applicant proposing mixed use development shall illustrate how the development will comply with the requirements set forth in the Architectural Design Guidelines for the Urban Downtown Character District.

G. *Use and Dimensional Standards.* All applicable development within the 1st Street Overlay shall be in accordance with the land use and dimensional standards in the following Table titled 1st Street Corridor Overlay District Use and Dimensional Standards~~Table 3.9~~:

~~Table 3.9:~~ 1st Street Corridor Overlay District Use and Dimensional Standards Table

Uses Allowed	Per Underlying Zoning
Mixed-Use Standards	Per R-4 Zoning
Maximum Density	Per Underlying Zoning
Maximum Building Height: Innovation District	3 Stories (40 feet)
Maximum Building Height: Urban Residential District	Per Underlying Zoning
Minimum Lot Size	Per Underlying Zoning
Minimum Lot Width	Per Underlying Zoning
Building Setbacks	Per Underlying Zoning
Building Orientation	Parallel to Front lot line
Maximum Parking and Driveway Frontage	40% of lot frontage shall include parking and/or driveway frontage

SECTION 9 HISTORIC RESOURCES[9]

30-9-101 Intent

A. The intent of this chapter is to:

1. Survey, identify, designate, preserve, protect, enhance, and perpetuate those sites, structures, objects, and districts that reflect important elements of the Town's cultural, artistic, social, economic, political, architectural, archaeological, or other heritage;

2. Foster civic pride in the art, architecture, and accomplishments of the past;

3. Stabilize or improve aesthetic and economic vitality and values of such sites, structures, objects, and districts;

4. Promote the use of important historical, archaeological, or architectural sites, structures, objects, and districts for the education, stimulation, and welfare of the people of the Town;

5. Protect and enhance the Town's historic cultural and environmental resources to preserve its attraction to tourists and visitors;

~~5.~~6. Promote thoughtful community planning and design;

~~6.~~7. Promote economic, social, and environmental sustainability through the ongoing use, maintenance, and rehabilitation of existing buildings.

30-9-102 Background

The Town of Berthoud recognizes that certain significant historic resources located within its boundaries contribute to the unique character of the community and are irreplaceable, and as such, merit preservation. Ordinance #920 established a Historic Preservation Commission; a program for the identification, evaluation, and designation of Local Historic Landmarks and Districts; providing information on public incentives for the preservation of Local Historic Landmarks; and land use regulations regarding the alternation, moving or demolition of Local Historic Landmarks and properties on the State or National Register of Historic Places. In 2011, the title of the Historic Preservation Commission was changed to the Berthoud Historic Preservation Advisory Committee by Resolution 4-11. Resolution 4-11 also identified procedures and operations for the Historic Preservation Advisory Committee. Resolution 2019-02 updated the membership, organization, procedure, functions, and duties of all non-statutory advisory committees including the Historic Preservation Advisory Committee.

30-9-103 Definitions

The following definitions apply to terms used in this Section. Terms not defined have their commonly construed meaning.

Alteration — An addition, removal, change, or reconfiguration which alters the exterior character of a Local Historic Landmark including new construction in Historic Districts.

i. *Minor alterations* shall include painting, repair or replacement of roof using the same or similar materials as the existing roof, or foundation repair.

ii. *Major alterations* shall include window or door replacement, additions, and removal or alteration of architectural elements, including but not limited to alterations of any land surface, including the addition or removal of any improvement to or from any land surface that is within or part of any designated resource.

Building — Construction for purposes of shelter or habitation, e.g. house, barn, store, theater, train station, garage, school and other similar structures.

Contributing Property — a building or object adding to the historic significance of a District.

Demolition — The razing, destruction, or dismantling of a resource to the degree that its historic character is substantially obliterated.

Designated Local Historic Landmark — A property officially recognized by the Town of Berthoud, Colorado, as important to its history.

State or *National Register of Historic Places* — Buildings, structures, objects, sites, and districts which are listed on the State Register of Historic Properties or National Register of Historic Places.

District — A significant concentration, linkage, or continuity of sites, buildings, structures, or objects united historically or aesthetically by plan or physical development.

Historic Context — An organizing structure for interpreting history that groups information about historic properties which share a common theme; common geographical location, and common time period. The development of historic contexts is a foundation for decisions about the planning, identification, evaluation, registration, and treatment of historic properties based upon comparative significance.

Historic Integrity — The authenticity of a property's historic identity, evidenced by the survival of physical characteristics that existed during the property's prehistoric or historic period and the composite of its location, design, setting, materials, workmanship, feeling and association.

Historic Significance — The importance of a property to the history, architecture, archaeology, engineering, or culture of a community, achieved by meeting one or more standards of 30-9-105.4.

Listing of Historic Resources — The record of information in the form of surveys about resources potentially significant to the history of the Town of Berthoud, Colorado, but have not been designated as a local landmark.

Local Historic Landmarks (LHL's) — are locally significant historic places designated by the Town of Berthoud because they possess exceptional value or quality in illustrating or interpreting the heritage of Berthoud, Colorado.

Object — Construction which is primarily artistic or commemorative in nature and not normally movable, or part of a building or structure, e.g. statue, fountain, milepost, monument, sign.

Preservation — focuses on the maintenance and repair of existing historic materials and retention of a property's form as it has evolved over time (see minor alterations).

Relocation — The removal of a resource from its historic context or site to another location.

Rehabilitation — The process of returning a property to a state of utility, through repair or alteration, which makes possible an efficient contemporary use while preserving those portions and features of the property which are significant to its historic, architectural, and cultural values.

Resource — any building, structure, site, or object that is part of or constitutes a historic property.

Site — location of a significant event, a prehistoric or historic occupation or activity, or a building or structure, whether standing ruined, or vanished, where the location itself possesses historic, cultural, or archaeological value regardless of the value of any existing structure which may include underground features, e.g. battlefield, campsite; or natural features, food-gathering areas, etc.

Structure — Construction made for functions other than shelter or habitation, e.g. bridge, windmill, dam, highway, silo, kiln.

Survey — The process of identifying, documenting and evaluating or re-evaluating properties to determine their potential for eligibility and designation as a Local Historic Landmark.

30-9-104 Authority and Duties

1. The Historic Preservation Advisory Committee shall conduct all activities necessary and appropriate to maintain Berthoud's Certified Local Government status with the State of Colorado and History Colorado.
2. The Historic Preservation Advisory Committee shall also make recommendations to Town staff and the Town Board of Trustees concerning:
   (a) Criteria for review of historic resources and for review of proposals to demolish designated resources.
   (b) Resources to be nominated for designation as either a historic structure or historic district and designation of those resources qualifying for such designation.
   (c) Application for alterations to the exterior of designated historic structures or elements of historic districts.
   (d) Application for moving or demolishing a Designated Local Historic Landmark.
   (e) Matters related to preserving the historic character of the Town.
   (f) Support or financial assistance for preservation-related programs.
   (g) Removal of properties from the register for reasons including, but not limited to, acts of God, undue hardship and public health/safety concerns.
   (h) Application fees for applications made by citizens applying for historic designation or who are applying to alter or demolish a historically designated property.
3. Advise and assist owners of historic properties on physical and financial aspects of reservation, renovation, rehabilitation, and reuse, including nominations to the Local, State or National Registers of Historic Places within the Town limits.
4. Initiate Public education programs including, but not limited to, walking tours, brochures, marker programs for historic properties, lectures and conferences within both the Town and the greater Berthoud area.
5. Survey historic properties for the purpose of defining those of historic significance, and to prioritize the importance of identified historic properties and areas.

30-9-105 Listing Standards

A. *Listing*.

1. The Committee shall determine and periodically revise priorities for the identification and evaluation of historic resources.
2. Unless the Committee finds extraordinary historic importance, only properties over 50 years of age shall be considered for inclusion in the Register of Local Historic Landmarks.
3. The Committee shall apply criteria based on historic integrity and significance, for evaluating historic resources. The criteria shall be used to identify historic resources as eligible, potentially eligible, or ineligible for listing on the Designated Local Historic Landmarks Register. Owners of surveyed properties will be notified of these findings by the Committee.
4. Documentation of properties in the Listing of Historic Resources shall be in a format compatible with forms developed by History Colorado, and upon completion, copies of the forms shall be supplied to History Colorado by the Committee.
5. Records concerning the locations of any archaeological sites shall be filed with History Colorado by the Committee to ensure the safety and security of an archaeological site.

30-9-106 Designated Local Historic Landmark register

A. Properties listed on the State Register of Historic Properties and National Register of Historic Places, including all properties within State or National Register Historic District boundaries, are eligible for automatic listing on the Designated Local Historic Landmark Register.

B. No property shall be designated without the written consent of the owner. In the case of the formation of a Historic District where there are multiple ownerships, a majority of the owners within the area of the proposed District may form the District but the regulations of that District shall only apply to properties that are identified as contributing within the District at the time of formation, or later as approved by the Town Board of Trustees on a case by case basis.

C. Upon acceptance of a completed application, the Town Staff shall schedule two public hearings; one before the Committee for a recommendation, and one before the Town Board of Trustees pursuant to applicable state laws.

In order to be included or maintained on the Local Historic Landmark Register, the Committee may recommend and the Town Board of Trustees must find that:

The quality of significance in Berthoud history, architecture, archaeology, engineering, and culture is present in districts, sites, buildings, structures, and objects that possess integrity of location, design, setting, materials, workmanship, feeling, and association, and:

1. That are associated with events that have made a significant contribution to the broad patterns of our history; or
2. That are associated with the lives of significant persons in Berthoud's past; or
3. That embody the distinctive characteristics of a type, period, or method of construction; represent the work of a master; or possess high artistic values; or represent a significant and distinguishable entity whose components may lack individual distinction; or
4. That yielded or may be likely to yield, information important in history or prehistory.

D. The Committee in making a recommendation and the Town Board of Trustees in making a decision shall develop findings based upon the criteria set forth in this Code, to support its recommendation and decision. These findings shall indicate those elements of a property, including any landscape, and archaeological features that are included in the designation and subject to regulation under the provisions of this ordinance.

30-9-107 Designation of Local Historic Landmarks

A. Recommendations for designation of Local Historic Landmarks. Pursuant to the procedures set forth in this Section, the Committee shall make written recommendation to the Board of Trustees that a site, building, structure, object, or district be designated as a Local Historic Landmark for preservation, meeting the criteria set forth in this Section. Each such recommendation shall include a description of the characteristics of the site, building, structure, object, or district's historic significance and integrity, which justify its designation and shall include a legal description of the property. The recommendation shall indicate alterations that would have a significant impact on, or be potentially detrimental to, the historic features of the site, building, structure, object, or district. Any such designation shall be in furtherance of and in conformance with the purposes and standards of this Section.

B. Procedures for designating Local Historic Landmarks.

1. *Applications*. Applications for designation of Local Historic Landmarks must be made to the Town Staff on forms provided by the Town. Applications shall be made only by the owners of 100 percent of the property for which the application is submitted, except as provided in Section 30-9-105.2.
2. *Staff review*. The Town Staff shall review applications for designation of Local Historic Landmarks for

content and for completeness. The Staff shall, within a reasonable time of receipt, forward complete applications and Staff recommendations to the Committee.

3. *Committee review*. The Committee shall consider and make recommendations upon applications at regularly scheduled or special meetings within a reasonable time of receipt of staff recommendations. The Committee shall recommend approval, approval with conditions, or disapproval of applications, and shall immediately forward written notice of their recommendations to the Town Board of Trustees. In the event of failure of the Committee to act in a timely manner, the Town Board may proceed without a Committee recommendation.

4. *Town Board of Trustees action*. After a recommendation by the Committee, and with public notice given as provided in the Notice and Publication Section of the Land Development Code, the Town Board of Trustees shall by resolution approve, approve with conditions, or shall deny the proposed Local Historic Landmark designation.

5. *Withdrawal of applications*. Prior to action on an application by the Town Board of Trustees, an Applicant may withdraw the application by submitting a written request to the Town Clerk.

6. *Recording*. The resolution designating a site, building, structure, object, or district as a Local Historic Landmark shall be recorded in the records of the Larimer or Weld County Clerk as appropriate.

30-9-108 Limitation on Resubmission and Reconsideration

Whenever the Town Board of Trustees denies an application for Local Historic Landmark designation, or whenever an owner withdraws an application, no application for the same site property may be submitted within one year of the disapproval or withdrawal.

30-9-109 Amendment of Designation

The designation of a Local Historic Landmark may be amended to add additional features to the property according to the application process described in Section 30-9-106 for new designations.

30-9-110 Alteration of a Designated Local Historic Landmark

All modifications to designated Local Historic Landmarks shall be done in conformance with the Secretary of the Interior's Standards for Rehabilitation as published by the U.S. Department of the Interior, National Park Service.

30-9-111 Notification of intent to alter a Designated Local Historic Landmark

The owner of a Local Historic Landmark agrees to notify the Town Staff of the owner's intention to alter (any defined minor or major alteration), demolish, move or remove the Landmark and provide plans for the work at least 30 days prior to beginning such work. This notification requirement shall run with the land and shall bind successors and assigns. The Town Staff shall, upon receipt, forward the notification and plans to the Committee for review and recommendation. The Committee shall review the plans and may advise the owner on the potential effect of the plans on the Local Landmark designation. The Committee may forward a recommendation to the Town Board that, based on the plans, the historic designation be modified or revoked.

30-9-112 Alterations, relocations or demolitions

A. No exterior, landscape, or archaeological element of a designation Local Historic Landmark which is specified as significant in its designation shall be altered, removed, or demolished without authorization issued by the Town Staff pursuant to this Section and a building permit issued, if required under the currently adopted building code.

B. No minor exterior alteration, relocation, or demolition of a designated Local Historic Landmark or a Contributing Structure in an approved Historic District shall be allowed without authorization issued by the Town Staff pursuant to this Section.

C. No major exterior alterations, relocation, or demolition of a designated Local Historic Landmark or a Contributing Structure in an approved Historic District shall be allowed without authorization issued by the Town Board of Trustees with a recommendation by the Committee.

D. Prior to submitting an application for a permit pursuant to this section, the Applicant(s) is encouraged to request a pre-application conference with Town Staff and/or the Committee to review concepts and proposals. The Committee may form ad-hoc sub-committees for this purpose. Committee members participating in pre-application conferences shall disclose their ex-parte contact at the time of any public hearing on the proposal.

E. In cases requiring a public hearing for the relocation or demolition of a Designated Local Historic Landmark, or a Contributing Structure in an approved Historic District, the Committee shall review and recommend to the Town Board of Trustees and the Board shall take action upon such applications. The burden of proof, as per the factors found in Section 30-9-111 6, lies with the Applicant. Applications may be approved, approved with conditions, or denied by the Town Board of Trustees. The Town Staff shall include any conditions imposed by the Town Board of Trustees in permits issued pursuant to this section.

F. Preservation, reuse, relocation, and/or salvage of historic resources whenever possible is encouraged.

G. Minor or Major Alterations:

1. Authorization from the Town Staff is required for work identified as minor alterations as defined in this Section. Authorization from the Town Board of Trustees with a recommendation from the Committee is required for work identified as major alterations to the exterior as defined in this Section. In order to approve an application for an alteration of a Local Historic Landmark, or a Contributing Structure in an approved Historic District, the approving authority shall find that the proposal meets the following standards:

a. A property shall be used as it was historically or be given a new use that requires minimal change to its distinctive materials, features, spaces, and spatial relationships.

b. The historic character of a property shall be retained and preserved. The relocation of distinctive materials or alteration of features, spaces, and spatial relationships that characterize a property shall be avoided.

c. A property shall be recognized as a physical record of its time, place, and use. Changes that create a false sense of historical development, such as adding conjectural features or elements from other historic properties, shall be discouraged.

d. Changes to a property that have acquired historic significance in their own right shall be retained and preserved.

e. Distinctive materials, features, finishes, and construction techniques or examples of craftsmanship that characterize a property shall be preserved.

f. Deteriorated historic features shall be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature shall match the old in design, color, texture, and, where possible , materials. Replacement of missing features shall be substantiated by documentary and physical evidence.

g. Chemical and physical treatments, if appropriate, shall be undertaken using the gentlest means possible. Treatments that cause damage to historic materials shall not be used unless otherwise approved by the Town Staff.

h. Archaeological resources should be protected and preserved in place. If such resources must be

disturbed, mitigation measures should be encouraged.

i. New additions, exterior alterations, or related new construction shall not destroy historic materials, features, and spatial relationships that characterize the property. The new work shall be differentiated from the old and shall be compatible with the historic materials, features, size, scale and proportions, and massing to protect the integrity of the property and its environment.

j. New additions and adjacent or related new construction shall be undertaken in such a manner that, if removed in the future, the essential form and integrity of the historic property and its environment would be unimpaired.

k. In order to approve an application for the relocation or demolition of a Local Historic Landmark, or a Contributing Structure in an Historic District, the Committee and the Town Board of Trustees must find that:

1. No prudent and feasible alternative exists, or

2. The designated property is deteriorated beyond repair, or

3. The value to the community of the proposed use of the property outweighs the value of retaining the Local Historic Landmark.

l. At the public hearing of an application to relocate or demolish a Local Historic Landmark, or a Contributing Structure in an Historic District the Town Board of Trustees, upon recommendation by the Committee, may, in the interest of exploring reasonable alternatives, delay issuance of a permit for up to 90 days from the date of the hearing. If, ten days prior to the expiration of the delay period the Committee finds that there are still reasonable alternatives to explore, it may recommend to the Board of Trustees a delay for an additional period of up to 90 days.

m. In approving an application for the demolition of a Local Historic Landmark, or a Contributing Structure in an Historic District the Committee may recommend to the Town Board of Trustees and the Board may impose the following conditions:

1. Photographic, video, or drawn recordation of the property to be demolished, and/or

2. Salvage and curation of significant elements, and/or

3. Other reasonable mitigation measures.

n. In the review process, the unique circumstances of each application is considered. Therefore, previous approval of a separate application in one setting and set of circumstances does not necessarily set a precedent for the approval of future applications that may be similar but present their own unique setting and set of circumstances.

o. No provision of this Section shall be construed to prevent the ordinary repair or maintenance of a Local Historic Landmark, or a Contributing Structure in an Historic District, when such action does not involve a change in design, materials or appearance.

p. No provision in this Section shall be construed to prevent the alteration, demolition or relocation of a Designated Local Historic Landmark, or a Contributing Structure in an approved Historic District when the Building Official certifies that such action is required for the public safety.

30-9-113 Revocation of Local Historic Landmark designation

The Town Board of Trustees may, by resolution, revoke or modify the designation of a Local Historic Landmark, after ten days' notice to the owner and after public hearing, and with a recommendation by the Committee if any of the following conditions exist:

A If any owner of a Local Historic Landmark fails to provide notification as required in this Section, or if alterations to the Landmark will significantly alter the historic character and/or integrity of the Landmark;

B If an owner of a Local Historic Landmark submits a written request to the Town for revocation of a designation;

C If the Committee makes a recommendation to the Town Board of Trustees for modification or revocation based on an owner's written intent to alter a Local Historic Landmark; or

D If modifications are made to a Local Historic Landmark that are found by the Committee and the Town Board of Trustees to not be in accordance with the standards specified in this Section.

SECTION 11: FLOOD MITIGATION PLAN

30-11-101. TITLE AND PURPOSE

The Legislature of the State of Colorado has, in Title 29, Article 20 of the Colorado Revised Statutes, delegated the responsibility of local governmental units to adopt regulations designed to minimize flood losses. Therefore, the Town Board of Trustees of the Town of Berthoud, Colorado, does hereby adopt the following floodplain management regulations:

A. Findings of fact.

1. The flood hazard areas of the Town of Berthoud are subject to periodic inundation, which can result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, and extraordinary public expenditures for flood protection and relief, all of which adversely affect the health, safety and general welfare of the public.
2. These flood losses are created by the cumulative effect of obstructions in floodplains which cause an increase in flood heights and velocities, and by the occupancy of flood hazard areas by uses vulnerable to floods and hazardous to other lands because they are inadequately elevated, floodproofed or otherwise protected from flood damage.

B. Statement of Purpose

It is the purpose of this ordinance to promote public health, safety and general welfare and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

1. Protect human life and health;
2. Minimize expenditure of public money for costly flood control projects;
3. Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
4. Minimize prolonged business interruptions;
5. Minimize damage to critical facilities, infrastructure and other public facilities such as water, sewer and gas mains; electric and communications stations; and streets and bridges located in floodplains;
6. Help maintain a stable tax base by providing for the sound use and development of flood-prone areas in such a manner as to minimize future flood blight areas; and
7. Insure that potential buyers are notified that property is located in a flood hazard area.

C. *Methods of reducing flood losses.* In order to accomplish its purposes, this ordinance uses the following methods:

1. Restrict or prohibit uses that are dangerous to health, safety or property in times of flood, or cause excessive increases in flood heights or velocities;
2. Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
3. Control the alteration of natural floodplains, stream channels, and natural protective barriers, which are involved in the accommodation of flood waters;
4. Control filling, grading, dredging and other development which may increase flood damage;
5. Prevent or regulate the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards to other lands.

30-11-102. DEFINITIONS

Unless specifically defined below, words or phrases used in this ordinance shall be interpreted to give them the meaning they have in common usage and to give this ordinance its most reasonable application.

100-YEAR FLOOD - A flood having a recurrence interval that has a one-percent chance of being equaled or exceeded during any given year (1-percent-annual-chance flood). The terms "one-hundred-year flood" and "one

percent chance flood" are synonymous with the term "100-year flood." The term does not imply that the flood will necessarily happen once every one hundred years.

100-YEAR FLOODPLAIN - The area of land susceptible to being inundated as a result of the occurrence of a one-hundred-year flood.

500-YEAR FLOOD - A flood having a recurrence interval that has a 0.2-percent chance of being equaled or exceeded during any given year (0.2-percent-chance-annual-flood). The term does not imply that the flood will necessarily happen once every five hundred years.

500-YEAR FLOODPLAIN - The area of land susceptible to being inundated as a result of the occurrence of a five-hundred-year flood.

ADDITION - Any activity that expands the enclosed footprint or increases the square footage of an existing structure.

ALLUVIAL FAN FLOODING - A fan-shaped sediment deposit formed by a stream that flows from a steep mountain valley or gorge onto a plain or the junction of a tributary stream with the main stream. Alluvial fans contain active stream channels and boulder bars, and recently abandoned channels. Alluvial fans are predominantly formed by alluvial deposits and are modified by infrequent sheet flood, channel avulsions and other stream processes.

AREA OF SHALLOW FLOODING - A designated Zone AO or AH on a community's Flood Insurance Rate Map (FIRM) with a one percent chance or greater annual chance of flooding to an average depth of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

BASE FLOOD – The flood which has a one percent chance of being equaled or exceeded in any given year (also known as a 100-year flood). This term is used in the National Flood Insurance Program (NFIP) to indicate the minimum level of flooding to be used by a community in its floodplain management regulations.

BASE FLOOD ELEVATION (BFE) - The elevation shown on a FEMA Flood Insurance Rate Map for Zones AE, AH, A1-A30, AR, AR/A, AR/AE, AR/A1-A30, AR/AH, AR/AO, V1-V30, and VE that indicates the water surface elevation resulting from a flood that has a one percent chance of equaling or exceeding that level in any given year.

BASEMENT - Any area of a building having its floor sub-grade (below ground level) on all sides.

CHANNEL - The physical confine of stream or waterway consisting of a bed and stream banks, existing in a variety of geometries.

CHANNELIZATION - The artificial creation, enlargement or realignment of a stream channel.

CODE OF FEDERAL REGULATIONS (CFR) - The codification of the general and permanent Rules published in the Federal Register by the executive departments and agencies of the Federal Government. It is divided into 50 titles that represent broad areas subject to Federal regulation.

COMMUNITY - Any political subdivision in the state of Colorado that has authority to adopt and enforce floodplain management regulations through zoning, including, but not limited to, cities, towns, unincorporated areas in the counties, Indian tribes and drainage and flood control districts.

CONDITIONAL LETTER OF MAP REVISION (CLOMR) - FEMA's comment on a proposed project, which does not revise an effective floodplain map, that would, upon construction, affect the hydrologic or hydraulic characteristics of a flooding source and thus result in the modification of the existing regulatory floodplain.

CRITICAL FACILITY – A structure or related infrastructure, but not the land on which it is situated, as specified in the Section regarding Standards for Critical Facilities, that if flooded may result in significant hazards to public health and safety or interrupt essential services and operations for the community at any time before, during and after a flood. See the Section regarding Standards for Critical Facilities.

DEVELOPMENT - Any man-made change in improved and unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.

DFIRM DATABASE - Database (usually spreadsheets containing data and analyses that accompany DFIRMs). The FEMA Mapping Specifications and Guidelines outline requirements for the development and maintenance of DFIRM databases.

DIGITAL FLOOD INSURANCE RATE MAP (DFIRM) - FEMA digital floodplain map. These digital maps serve as "regulatory floodplain maps" for insurance and floodplain management purposes.

ELEVATED BUILDING - A non-basement building (i) built, in the case of a building in

Zones A1-30, AE, A, A99, AO, AH, B, C, X, and D, to have the top of the elevated floor above the ground level by means of pilings, columns (posts and piers), or shear walls parallel to the flow of the water and (ii) adequately anchored so as not to impair the structural integrity of the building during a flood of up to the magnitude of the base flood. In the case of Zones A1-30, AE, A, A99, AO, AH, B, C, X, and D, "elevated building" also includes a building elevated by means of fill or solid foundation perimeter walls with openings sufficient to facilitate the unimpeded movement of flood waters.

EXISTING MANUFACTURED HOME PARK OR SUBDIVISION - A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the floodplain management regulations adopted by a community.

EXPANSION TO AN EXISTING MANUFACTURED HOME PARK OR SUBDIVISION-

The preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

FEDERAL REGISTER - The official daily publication for Rules, proposed Rules, and notices of Federal agencies and organizations, as well as executive orders and other presidential documents.

FEMA - Federal Emergency Management Agency, the agency responsible for administering the National Flood Insurance Program.

FLOOD OR FLOODING - A general and temporary condition of partial or complete inundation of normally dry land areas from:

1. The overflow of water from channels and reservoir spillways;
2. The unusual and rapid accumulation or runoff of surface waters from any source; or
3. Mudslides or mudflows that occur from excess surface water that is combined with mud or other debris that is sufficiently fluid so as to flow over the surface of normally dry land areas (such as earth carried by a current of water and deposited along the path of the current).

FLOOD INSURANCE RATE MAP (FIRM) – An official map of a community, on which the Federal Emergency Management Agency has delineated both the Special Flood Hazard Areas and the risk premium zones applicable to the community.

FLOOD INSURANCE STUDY (FIS) - The official report provided by the Federal Emergency Management Agency. The report contains the Flood Insurance Rate Map as well as flood profiles for studied flooding sources that can be used to determine Base Flood Elevations for some areas.

FLOODPLAIN OR FLOOD-PRONE AREA - Any land area susceptible to being inundated as the result of a flood, including the area of land over which floodwater would flow from the spillway of a reservoir.

FLOODPLAIN ADMINISTRATOR - The community official designated by title to administer and enforce the floodplain management regulations.

FLOODPLAIN DEVELOPMENT PERMIT – A permit required before construction or development begins within any Special Flood Hazard Area (SFHA). If FEMA has not defined the SFHA within a community, the community shall require permits for all proposed construction or other development in the community including the placement of manufactured homes, so that it may determine whether such construction or other development is proposed

within flood-prone areas. Permits are required to ensure that proposed development projects meet the requirements of the NFIP and this floodplain management ordinance.

FLOODPLAIN MANAGEMENT - The operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to emergency preparedness plans, flood control works and floodplain management regulations.

FLOODPLAIN MANAGEMENT REGULATIONS - Zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as a floodplain ordinance, grading ordinance and erosion control ordinance) and other applications of police power. The term describes such state or local regulations, in any combination thereof, which provide standards for the purpose of flood damage prevention and reduction.

FLOOD CONTROL STRUCTURE - A physical structure designed and built expressly or partially for the purpose of reducing, redirecting, or guiding flood flows along a particular waterway. These specialized flood modifying works are those constructed in conformance with sound engineering standards.

FLOODPROOFING - Any combination of structural and/or non-structural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

FLOODWAY (REGULATORY FLOODWAY) - The channel of a river or other watercourse and adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height. The Colorado statewide standard for the designated height to be used for all newly studied reaches shall be one-half foot (six inches). Letters of Map Revision to existing floodway delineations may continue to use the floodway criteria in place at the time of the existing floodway delineation.

FREEBOARD - The vertical distance in feet above a predicted water surface elevation intended to provide a margin of safety to compensate for unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood such as debris blockage of bridge openings and the increased runoff due to urbanization of the watershed.

FUNCTIONALLY DEPENDENT USE - A use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities.

HIGHEST ADJACENT GRADE – The highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

HISTORIC STRUCTURE - Any structure that is:

1. Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;

2. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;

3. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of Interior; or

4. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
    a. By an approved state program as determined by the Secretary of the Interior or;
    b. Directly by the Secretary of the Interior in states without approved programs.

LETTER OF MAP REVISION (LOMR) - FEMA's official revision of an effective Flood Insurance Rate Map (FIRM), or Flood Boundary and Floodway Map (FBFM), or both. LOMRs are generally based on the implementation of physical measures that affect the hydrologic or hydraulic characteristics of a flooding source and thus result in the modification of the existing regulatory floodway, the effective Base Flood Elevations (BFEs), or the Special Flood Hazard Area (SFHA).

LETTER OF MAP REVISION BASED ON FILL (LOMR-F) – FEMA's modification of the Special Flood Hazard Area (SFHA) shown on the Flood Insurance Rate Map (FIRM) based on the placement of fill outside the existing regulatory floodway.

LEVEE – A man-made embankment, usually earthen, designed and constructed in accordance with sound engineering practices to contain, control, or divert the flow of water so as to provide protection from temporary flooding. For a levee structure to be reflected on the FEMA FIRMs as providing flood protection, the levee structure must meet the requirements set forth in 44 CFR 65.10.

LEVEE SYSTEM - A flood protection system which consists of a levee, or levees, and associated structures, such as closure and drainage devices, which are constructed and operated in accordance with sound engineering practices.

LOWEST FLOOR - The lowest floor of the lowest enclosed area (including basement). Any floor used for living purposes which includes working, storage, sleeping, cooking and eating, or recreation or any combination thereof. This includes any floor that could be converted to such a use such as a basement or crawl space. The lowest floor is a determinate for the flood insurance premium for a building, home or business. An unfinished or flood resistant enclosure, usable solely for parking or vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor; provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirement of Section 60.3 of the National Flood insurance Program regulations.

MANUFACTURED HOME - A structure transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. The term "manufactured home" does not include a "recreational vehicle".

MANUFACTURED HOME PARK OR SUBDIVISION - A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

MEAN SEA LEVEL - For purposes of the National Flood Insurance Program, the

North American Vertical Datum (NAVD) of 1988 or other datum, to which Base Flood Elevations shown on a community's Flood Insurance Rate Map are referenced.

MATERIAL SAFETY DATA SHEET (MSDS) – A form with data regarding the properties of a particular substance. An important component of product stewardship and workplace safety, it is intended to provide workers and emergency personnel with procedures for handling or working with that substance in a safe manner, and includes information such as physical data (melting point, boiling point, flash point, etc.), toxicity, health effects, first aid, reactivity, storage, disposal, protective equipment, and spill-handling procedures.

NATIONAL FLOOD INSURANCE PROGRAM (NFIP) – FEMA's program of flood insurance coverage and floodplain management administered in conjunction with the Robert T. Stafford Relief and Emergency Assistance Act. The NFIP has applicable Federal regulations promulgated in Title 44 of the Code of Federal Regulations. The U.S. Congress established the NFIP in 1968 with the passage of the National Flood Insurance Act of 1968.

NEW CONSTRUCTION - Structures for which the start of construction commenced on or after the effective date of a floodplain management regulation adopted by a community and includes any subsequent improvements to such structures.

NEW MANUFACTURED HOME PARK OR SUBDIVISION - A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of floodplain management regulations adopted by a community.

NO-RISE CERTIFICATION – A record of the results of an engineering analysis conducted to determine whether a project will increase flood heights in a floodway. A No-Rise Certification must be supported by technical data and signed by a registered Colorado Professional Engineer. The supporting technical data should be based on the standard step-backwater computer model used to develop the 100-year floodway shown on the Flood Insurance Rate Map (FIRM) or Flood Boundary and Floodway Map (FBFM).

PHYSICAL MAP REVISION (PMR) - FEMA's action whereby one or more map panels are physically revised and republished. A PMR is used to change flood risk zones, floodplain and/or floodway delineations, flood elevations, and/or planimetric features.

RECREATIONAL VEHICLE - means a vehicle which is:

1. Built on a single chassis;
2. 400 square feet or less when measured at the largest horizontal projections;
3. Designed to be self-propelled or permanently towable by a light duty truck; and
4. Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

SPECIAL FLOOD HAZARD AREA – The land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year, i.e., the 100-year floodplain.

START OF CONSTRUCTION - The date the building permit was issued, including substantial improvements, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for basement, footings, piers or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

STRUCTURE - A walled and roofed building, including a gas or liquid storage tank, which is principally above ground, as well as a manufactured home.

SUBSTANTIAL DAMAGE - Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed 50 percent of the market value of the structure just prior to when the damage occurred.

SUBSTANTIAL IMPROVEMENT - Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before "Start of Construction" of the improvement. The value of the structure shall be determined by the local jurisdiction having land use authority in the area of interest. This includes structures which have incurred "Substantial Damage", regardless of the actual repair work performed. The term does not, however, include either:

1. Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary conditions or
2. Any alteration of a "historic structure" provided that the alteration will not preclude the structure's continued designation as a "historic structure."

THRESHOLD PLANNING QUANTITY (TPQ) – A quantity designated for each chemical on the list of extremely hazardous substances that triggers notification by facilities to the State that such facilities are subject to emergency planning requirements.

VARIANCE - A grant of relief to a person from the requirement of this ordinance when specific enforcement would result in unnecessary hardship. A variance, therefore, permits construction or development in a manner otherwise

prohibited by this ordinance. (For full requirements see Section 60.6 of the National Flood Insurance Program regulations).

VIOLATION - The failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in Section

60.3(b)(5), (c)(4), (c)(10), (d)(3), (e)(2), (e)(4), or (e)(5) is presumed to be in violation until such time as that documentation is provided.

WATER SURFACE ELEVATION - The height, in relation to the North American

Vertical Datum (NAVD) of 1988 (or other datum, where specified), of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.

30-11-103. GENERAL PROVISIONS

A. *Lands to which this Ordinance applies.* The ordinance shall apply to all Special Flood Hazard Areas and areas removed from the floodplain by the issuance of a FEMA Letter of Map Revision Based on Fill (LOMR-F) within the jurisdiction of Berthoud, Colorado.

B. *Basis for establishing the special flood hazard area.* The Special Flood Hazard Areas identified by the Federal Emergency Management Agency in a scientific and engineering report entitled, *"Flood Insurance Study, Larimer County, Colorado, and Incorporated Areas, Effective January 15, 2021"*~~, dated January 15, 2021~~; and "*Flood Insurance Study, Weld County, Colorado, and Incorporated Areas, Effective September 26, 2024"*~~", dated January 20, 2016~~, with accompanying Flood Insurance Rate Maps and/or Flood Boundary-Floodway Maps (FIRM and/or FBFM) and any revisions thereto are hereby adopted by reference and declared to be a part of this ordinance. These Special Flood Hazard Areas identified by the FIS and attendant mapping are the minimum area of applicability of this ordinance and may be supplemented by studies designated and approved by the Town of Berthoud. The Floodplain Administrator shall keep a copy of the Flood Insurance Study (FIS), DFIRMs, and FIRMs on file and available for public inspection.

C. *Establishment of floodplain development permit.* A Floodplain Development Permit shall be required to ensure conformance with the provisions of this ordinance.

D. *Compliance.* No structure or land shall hereafter be located, altered, or have its use changed within the Special Flood Hazard Area without full compliance with the terms of this ordinance and other applicable regulations. Nothing herein shall prevent the Town of Berthoud from taking such lawful action as is necessary to prevent or remedy any violation. These regulations meet the minimum requirements as set forth by the Colorado Water Conservation Board and the National Flood Insurance Program.

E. *Abrogation and greater restrictions.* This ordinance is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this ordinance and another ordinance, easement, covenant, nor deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

F. *Interpretation.* In the interpretation and application of this ordinance, all provisions shall be:
   1. Considered as minimum requirements;
   2. Liberally construed in favor of the governing body; and
   3. Deemed neither to limit nor repeal any other powers granted under State statutes.

G. *Warning and disclaimer of liability.* The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. On rare occasions greater floods can and will occur and flood heights may be increased by man-made or natural causes.

This ordinance does not imply that land outside the Special Flood Hazard Area or uses permitted within such areas will be free from flooding or flood damages. This ordinance shall not create liability on the part of the

Community or any official or employee thereof for any flood damages that result from reliance on this Ordinance, or any administrative decision lawfully made thereunder.

H. *Severability.* This ordinance and the various parts thereof are hereby declared to be severable. Should any section of this ordinance be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the ordinance as a whole, or any portion thereof other than the section so declared to be unconstitutional or invalid.

30-11-104. ADMINISTRATION

A. *Designation of the Floodplain Administrator.* The Town Engineer, or their assignee is hereby appointed as Floodplain Administrator to administer, implement and enforce the provisions of this ordinance and other appropriate sections of 44 CFR (National Flood Insurance Program Regulations) pertaining to floodplain management.

B. *Duties and responsibilities of the Floodplain Administrator.* Duties and responsibilities of the Floodplain Administrator shall include, but not be limited to, the following:
   1. Maintain and hold open for public inspection all records pertaining to the provisions of this ordinance, including the actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures and any floodproofing certificate required by the Section on Permit Procedures.
   2. Review, approve, or deny all applications for Floodplain Development Permits required by adoption of this ordinance.
   3. Review Floodplain Development Permit applications to determine whether a proposed building site, including the placement of manufactured homes, will be reasonably safe from flooding.
   4. Review permits for proposed development to assure that all necessary permits have been obtained from those Federal, State or local governmental agencies (including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334) from which prior approval is required.
   5. Inspect all development at appropriate times during the period of construction to ensure compliance with all provisions of this ordinance, including proper elevation of the structure.
   6. Where interpretation is needed as to the exact location of the boundaries of the Special Flood Hazard Area (for example, where there appears to be a conflict between a mapped boundary and actual field conditions) the Floodplain Administrator shall make the necessary interpretation.
   7. When Base Flood Elevation data has not been provided in accordance with the Section on the Basis for Establishing the Special Flood Hazard Area, the Floodplain Administrator shall obtain, review and reasonably utilize any Base Flood Elevation data and Floodway data available from a Federal, State, or other source, in order to administer the provisions of the Section on Provisions for Flood Hazard Reduction.
   8. For waterways with Base Flood Elevations for which a regulatory Floodway has not been designated, no new construction, substantial improvements, or other development (including fill) shall be permitted within Zones A1-30 and AE on the community's FIRM, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one-half foot at any point within the community.
   9. Under the provisions of 44 CFR Chapter 1, Section 65.12, of the National Flood Insurance Program regulations, a community may approve certain development in Zones A1-30, AE, AH, on the community's FIRM which increases the water surface elevation of the base flood by more than one-half foot, provided that the community first applies for a conditional FIRM revision through FEMA (Conditional Letter of Map Revision), fulfills the requirements for such revisions as established under the provisions of Section 65.12 and receives FEMA approval.
   10. Notify, in riverine situations, adjacent communities and the State Coordinating Agency, which is the Colorado Water Conservation Board, prior to any alteration or relocation of a watercourse, and submit evidence of such notification to FEMA.

11. Ensure that the flood carrying capacity within the altered or relocated portion of any watercourse is maintained.

C. *Permit Procedures*. Application for a Floodplain Development Permit shall be presented to the Floodplain Administrator on forms furnished by him/her and may include, but not be limited to, plans in duplicate drawn to scale showing the location, dimensions, and elevation of proposed landscape alterations, existing and proposed structures, including the placement of manufactured homes, and the location of the foregoing in relation to Special Flood Hazard Area. Additionally, the following information is required:
    1. Elevation (in relation to mean sea level), of the lowest floor (including basement) of all new and substantially improved structures;
    2. Elevation in relation to mean sea level to which any nonresidential structure shall be floodproofed;
    3. A certificate from a registered Colorado Professional Engineer or architect that the nonresidential floodproofed structure shall meet the floodproofing criteria found in the Section of Provisions for Flood Hazard Reduction and specifically Specific Standards for Construction;
    4. Description of the extent to which any watercourse or natural drainage will be altered or relocated as a result of proposed development.
    5. Maintain a record of all such information in accordance with the Section on the Duties and Responsibilities of the Floodplain Administrator.
    6. Approval or denial of a Floodplain Development Permit by the Floodplain Administrator shall be based on all of the provisions of this ordinance and the following relevant factors:
        a. The danger to life and property due to flooding or erosion damage;
        b. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
        c. The danger that materials may be swept onto other lands to the injury of others;
        d. The compatibility of the proposed use with existing and anticipated development;
        e. The safety of access to the property in times of flood for ordinary and emergency vehicles;
        f. The costs of providing governmental services during and after flood conditions including maintenance and repair of streets and bridges, and public utilities and facilities such as sewer, gas, electrical and water systems;
        g. The expected heights, velocity, duration, rate of rise and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site;
        h. The necessity to the facility of a waterfront location, where applicable;
        i. The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;
        j. The relationship of the proposed use to the comprehensive plan for that area.

D. Variance Procedures.
    1. The Appeal Board, as established by the Community, shall hear and render judgment on requests for variances from the requirements of this ordinance.
    2. The Appeal Board shall hear and render judgment on an appeal only when it is alleged there is an error in any requirement, decision, or determination made by the Floodplain Administrator in the enforcement or administration of this ordinance.
    3. Any person or persons aggrieved by the decision of the Appeal Board may appeal such decision in the courts of competent jurisdiction.
    4. The Floodplain Administrator shall maintain a record of all actions involving an appeal and shall report variances to the Federal Emergency Management Agency upon request.
    5. Variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing the relevant factors in Section C of this Article have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases.

6. Upon consideration of the factors noted above and the intent of this ordinance, the Appeal Board may attach such conditions to the granting of variances as it deems necessary to further the purpose and objectives of this ordinance as stated in the Statement of Purpose Section.
7. Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
8. Variances may be issued for the repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.
9. Prerequisites for granting variances:
    a. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
    b. Variances shall only be issued upon:
        i. Showing a good and sufficient cause;
        ii. A determination that failure to grant the variance would result in exceptional hardship to the applicant, and
        iii. A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.
    c. Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with the lowest floor elevation below the Base Flood Elevation, and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.
10. Variances may be issued by a community for new construction and substantial improvements and for other development necessary for the conduct of a Functionally Dependent Use provided that:
    a. The criteria outlined in the Administration Section and Specifically the Variance Procedures Section, and
    b. The structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.

E. *Penalties for noncompliance*. No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of this Chapter and Title 30 of the Berthoud Municipal Code. Violation of the provisions of this Chapter by failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with conditions) shall proceed through the Enforcement procedures outlined in the Municipal Code.

30-11-105. PROVISIONS FOR FLOOD HAZARD REDUCTION

A. *General Standards.* In all Special Flood Hazard Areas the following provisions are required for all new construction and substantial improvements:
1. All new construction or substantial improvements shall be designed (or modified) and adequately anchored to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;
2. All new construction or substantial improvements shall be constructed by methods and practices that minimize flood damage;
3. All new construction or substantial improvements shall be constructed with materials resistant to flood damage;
4. All new construction or substantial improvements shall be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding;

5. All manufactured homes shall be installed using methods and practices which minimize flood damage. For the purposes of this requirement, manufactured homes must be elevated and anchored to resist flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable State and local anchoring requirements for resisting wind forces.
6. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;
7. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the system and discharge from the systems into flood waters; and,
8. On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

B. *Specific Standards.* In all Special Flood Hazard Areas where base flood elevation data has been provided as set forth in (i) the General Provisions Section, Basis for establishing the Special Flood Hazard Area; (ii) the Administrative Section, Duties and Responsibilities of the Floodplain Administrator item 7; or (iii) the Provisions for Flood Hazard Reduction Section, Standards for Subdivision Proposals, the following provisions are required:

1. RESIDENTIAL CONSTRUCTION.

New construction and Substantial Improvement of any residential structure shall have the lowest floor (including basement), electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities (including ductwork), elevated to one foot above the base flood elevation. Upon completion of the structure, the elevation of the lowest floor, including basement, shall be certified by a registered Colorado Professional Engineer, architect, or land surveyor. Such certification shall be submitted to the Floodplain Administrator.

2. NONRESIDENTIAL CONSTRUCTION

With the exception of Critical Facilities, outlined in Article 5, Section H, new construction and Substantial Improvements of any commercial, industrial, or other nonresidential structure shall either have the lowest floor (including basement), electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities (including ductwork), elevated to one foot above the base flood elevation or, together with attendant utility and sanitary facilities, be designed so that at one foot above the base flood elevation the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.

A registered Colorado Professional Engineer or architect shall develop and/or review structural design, specifications, and plans for the construction, and shall certify that the design and methods of construction are in accordance with accepted standards of practice as outlined in this subsection. Such certification shall be maintained by the Floodplain Administrator, as proposed in the Administration Section, Permit Procedures.

3. ENCLOSURES

New construction and substantial improvements, with fully enclosed areas below the lowest floor that are usable solely for parking of vehicles, building access, or storage in an area other than a basement and which are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters.

Designs for meeting this requirement must either be certified by a registered Colorado Professional Engineer or architect or meet or exceed the following minimum criteria:

a. A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided.
b. The bottom of all openings shall be no higher than one foot above grade.

c. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

4. MANUFACTURED HOMES

All manufactured homes that are placed or substantially improved within Zones A1-30, AH, and AE on the community's FIRM on sites (i) outside of a manufactured home park or subdivision, (ii) in a new manufactured home park or subdivision, (iii) in an expansion to an existing manufactured home park or subdivision, or (iv) in an existing manufactured home park or subdivision on which manufactured home has incurred "substantial damage" as a result of a flood, be elevated on a permanent foundation such that the lowest floor of the manufactured home, electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities (including ductwork), are elevated to one foot above the base flood elevation and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.

All manufactured homes placed or substantially improved on sites in an existing manufactured home park or subdivision within Zones A1-30, AH and AE on the community's FIRM that are not subject to the provisions of the above paragraph, shall be elevated so that either:

a. The lowest floor of the manufactured home, electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities (including ductwork), are one foot above the base flood elevation, or
b. The manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above grade and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.

5. RECREATIONAL VEHICLES

All recreational vehicles placed on sites within Zones A1-30, AH, and AE on the community's FIRM either:

a. Be on the site for fewer than 180 consecutive days,
b. Be fully licensed and ready for highway use, or
c. Meet the permit requirements of the Administration Section, Permit Procedures, and the elevation and anchoring requirements for "manufactured homes" in paragraph (4) of this section.

A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions.

6. PRIOR APPROVED ACTIVITIES

Any activity for which a Floodplain Development Permit was issued by the Town of Berthoud or a CLOMR was issued by FEMA prior to the effective date of the Flood Damage Prevention Ordinance adopting the Berthoud Flood District may be completed according to the standards in place at the time of the permit or CLOMR issuance and will not be considered in violation of this ordinance if it meets such standards.

C. *Standards for areas of shallow flooding (AO/AH Zones).* Located within the Special Flood Hazard Area established in the General Provisions Section, Basis for Establishing the Special Flood Hazard Area, are areas designated as shallow flooding. These areas have special flood hazards associated with base flood depths of 1 to 3 feet where a clearly defined channel does not exist and where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow; therefore, the following provisions apply:

1. RESIDENTIAL CONSTRUCTION

All new construction and Substantial Improvements of residential structures must have the lowest floor (including basement), electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities (including ductwork), elevated above the highest adjacent

grade at least one foot above the depth number specified in feet on the community's FIRM (at least three feet if no depth number is specified). Upon completion of the structure, the elevation of the lowest floor, including basement, shall be certified by a registered Colorado Professional Engineer, architect, or land surveyor. Such certification shall be submitted to the Floodplain Administrator.

2. NONRESIDENTIAL CONSTRUCTION

With the exception of Critical Facilities, outlined in Section regarding Provisions for Flood Hazard Reduction and Standards for Critical Facilities, all new construction and Substantial Improvements of non-residential structures, must have the lowest floor (including basement), electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities (including ductwork), elevated above the highest adjacent grade at least one foot above the depth number specified in feet on the community's FIRM (at least three feet if no depth number is specified), or together with attendant utility and sanitary facilities, be designed so that the structure is watertight to at least one foot above the base flood level with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads of effects of buoyancy. A registered Colorado Professional Engineer or architect shall submit a certification to the Floodplain Administrator that the standards of this Section, as proposed in the Administration, Permit Procedures Section, are satisfied.

Within Zones AH or AO, adequate drainage paths around structures on slopes are required to guide flood waters around and away from proposed structures.

D. *Floodways.* Floodways are administrative limits and tools used to regulate existing and future floodplain development. The State of Colorado has adopted Floodway standards that are more stringent than the FEMA minimum standard (see definition of Floodway in the Definition Section). Located within Special Flood Hazard Area established in the General Provisions, Basis for Establishing the Special Flood Hazard Area, are areas designated as Floodways. Since the Floodway is an extremely hazardous area due to the velocity of floodwaters which carry debris, potential projectiles and erosion potential, the following provisions shall apply:

1. Encroachments are prohibited, including fill, new construction, substantial improvements and other development within the adopted regulatory Floodway *unless* it has been demonstrated through hydrologic and hydraulic analyses performed by a licensed Colorado Professional Engineer and in accordance with standard engineering practice that the proposed encroachment would not result in any increase (requires a No-Rise Certification) in flood levels within the community during the occurrence of the base flood discharge.
2. If the Section on Provisions for Flood Hazard Reduction, Floodways above is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of the Section on Provisions for Flood Hazard Reduction.
3. Under the provisions of 44 CFR Chapter 1, Section 65.12, of the National Flood Insurance Regulations, a community may permit encroachments within the adopted regulatory floodway that would result in an increase in Base Flood Elevations, provided that the community first applies for a CLOMR and floodway revision through FEMA.

E. *Alteration of a watercourse.* For all proposed developments that alter a watercourse within a Special Flood Hazard Area, the following standards apply:

1. Channelization and flow diversion projects shall appropriately consider issues of sediment transport, erosion, deposition, and channel migration and properly mitigate potential problems through the project as well as upstream and downstream of any improvement activity. A detailed analysis of sediment transport and overall channel stability should be considered, when appropriate, to assist in determining the most appropriate design.
2. Channelization and flow diversion projects shall evaluate the residual 100-year floodplain.

3. Any channelization or other stream alteration activity proposed by a project proponent must be evaluated for its impact on the regulatory floodplain and be in compliance with all applicable Federal, State and local floodplain rules, regulations and ordinances.
4. Any stream alteration activity shall be designed and sealed by a registered Colorado Professional Engineer or Certified Professional Hydrologist.
5. All activities within the regulatory floodplain shall meet all applicable Federal, State and Berthoud floodplain requirements and regulations.
6. Within the Regulatory Floodway, stream alteration activities shall not be constructed unless the project proponent demonstrates through a Floodway analysis and report, sealed by a registered Colorado Professional Engineer, that there is not more than a 0.00-foot rise in the proposed conditions compared to existing conditions Floodway resulting from the project, otherwise known as a No-Rise Certification, unless the community first applies for a CLOMR and Floodway revision in accordance with Section D of this Article.
7. Maintenance shall be required for any altered or relocated portions of watercourses so that the flood-carrying capacity is not diminished.

F. *Properties removed from the floodplain by fill.* A Floodplain Development Permit shall not be issued for the construction of a new structure or addition to an existing structure on a property removed from the floodplain by the issuance of a FEMA Letter of Map Revision Based on Fill (LOMR-F), unless such new structure or addition complies with the following:

1. RESIDENTIAL CONSTRUCTION

The lowest floor (including basement), electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities (including ductwork), must be elevated to one foot above the Base Flood Elevation that existed prior to the placement of fill.

2. NONRESIDENTIAL CONSTRUCTION

The lowest floor (including basement), electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities (including ductwork), must be elevated to one foot above the Base Flood Elevation that existed prior to the placement of fill, or together with attendant utility and sanitary facilities be designed so that the structure or addition is watertight to at least one foot above the base flood level that existed prior to the placement of fill with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads of effects of buoyancy.

G. *Standards for Subdivision proposals*.

1. All subdivision proposals including the placement of manufactured home parks and subdivisions shall be reasonably safe from flooding. If a subdivision or other development proposal is in a flood-prone area, the proposal shall minimize flood damage.
2. All proposals for the development of subdivisions including the placement of manufactured home parks and subdivisions shall meet Floodplain Development Permit requirements of General Provisions, Basis for Establishing the Special Flood Hazard Area; Administration, Permit Procedures; and the provisions of the Section on Provisions for Flood Hazard Reduction of this ordinance.
3. Base Flood Elevation data shall be generated for subdivision proposals and other proposed development including the placement of manufactured home parks and subdivisions which is greater than 50 lots or 5 acres, whichever is lesser, if not otherwise provided pursuant to the General Provisions and Administration sections of this ordinance.
4. All subdivision proposals including the placement of manufactured home parks and subdivisions shall have adequate drainage provided to reduce exposure to flood hazards.
5. All subdivision proposals including the placement of manufactured home parks and subdivisions shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize or eliminate flood damage.

H. *Standards for critical facilities*. A Critical Facility is a structure or related infrastructure, but not the land on which it is situated, as specified in Rule 6 of the Rules and Regulations for Regulatory Floodplains in Colorado, that if flooded may result in significant hazards to public health and safety or interrupt essential services and operations for the community at any time before, during and after a flood.

1. Classification of critical facilities. It is the responsibility of the Town of Berthoud to identify and confirm that specific structures in their community meet the following criteria:
    a. Critical Facilities are classified under the following categories: (a) Essential Services; (b) Hazardous Materials; (c) At-risk Populations; and (d) Vital to Restoring Normal Services.
    b. Essential services facilities include public safety, emergency response, emergency medical, designated emergency shelters, communications, public utility plant facilities, and transportation lifelines.
    c. These facilities consist of:
        i. Public safety (police stations, fire and rescue stations, emergency vehicle and equipment storage, and, emergency operation centers);
        ii. Emergency medical (hospitals, ambulance service centers, urgent care centers having emergency treatment functions, and non-ambulatory surgical structures but excluding clinics, doctors offices, and non-urgent care medical structures that do not provide these functions);
        iii. Designated emergency shelters;
        iv. Communications (main hubs for telephone, broadcasting equipment for cable systems, satellite dish systems, cellular systems, television, radio, and other emergency warning systems, but excluding towers, poles, lines, cables, and conduits);
        v. Public utility plant facilities for generation and distribution (hubs, treatment plants, substations and pumping stations for water, power and gas, but not including towers, poles, power lines, buried pipelines, transmission lines, distribution lines, and service lines); and
        vi. Air Transportation lifelines (airports (municipal and larger), helicopter pads and structures serving emergency functions, and associated infrastructure (aviation control towers, air traffic control centers, and emergency equipment aircraft hangars).
    d. Specific exemptions to this category include wastewater treatment plants (WWTP), non-potable water treatment and distribution systems, and hydroelectric power generating plants and related appurtenances.
    e. Public utility plant facilities may be exempted if it can be demonstrated to the satisfaction of the Town of Berthoud that the facility is an element of a redundant system for which service will not be interrupted during a flood. At a minimum, it shall be demonstrated that redundant facilities are available (either owned by the same utility or available through an intergovernmental agreement or other contract) and connected, the alternative facilities are either located outside of the 100-year floodplain or are compliant with the provisions of this Article, and an operations plan is in effect that states how redundant systems will provide service to the affected area in the event of a flood. Evidence of ongoing redundancy shall be provided to the Town of Berthoud on an as-needed basis upon request.
    f. Hazardous materials facilities include facilities that produce or store highly volatile, flammable, explosive, toxic and/or water-reactive materials. These facilities may include:
        i. Chemical and pharmaceutical plants (chemical plant, pharmaceutical manufacturing);
        ii. Laboratories containing highly volatile, flammable, explosive, toxic and/or water-reactive materials;
        iii. Refineries;
        iv. Hazardous waste storage and disposal sites; and
        v. Above ground gasoline or propane storage or sales centers.
    g. Facilities shall be determined to be Critical Facilities if they produce or store materials in excess of threshold limits. If the owner of a facility is required by the Occupational Safety and Health

Administration (OSHA) to keep a Material Safety Data Sheet (MSDS) on file for any chemicals stored or used in the work place, AND the chemical(s) is stored in quantities equal to or greater than the Threshold Planning Quantity (TPQ) for that chemical, then that facility shall be considered to be a Critical Facility. The TPQ for these chemicals is: either 500 pounds or the TPQ listed (whichever is lower) for the 356 chemicals listed under 40 C.F.R. § 302 (2010), also known as Extremely Hazardous Substances (EHS); or 10,000 pounds for any other chemical. This threshold is consistent with the requirements for reportable chemicals established by the Colorado Department of Health and Environment. OSHA requirements for MSDS can be found in 29 C.F.R. § 1910 (2010). The Environmental Protection Agency (EPA) regulation "Designation, Reportable Quantities, and Notification," 40 C.F.R. § 302 (2010) and OSHA regulation "Occupational Safety and Health Standards," 29 C.F.R. § 1910 (2010) are incorporated herein by reference and include the regulations in existence at the time of the promulgation this Ordinance but exclude later amendments to or editions of the regulations. Specific exemptions to this category include the following:

i. Finished consumer products within retail centers and households containing hazardous materials intended for household use, and agricultural products intended for agricultural use.
ii. Buildings and other structures containing hazardous materials for which it can be demonstrated to the satisfaction of the local authority having jurisdiction by hazard assessment and certification by a qualified professional (as determined by the local jurisdiction having land use authority) that a release of the subject hazardous material does not pose a major threat to the public.
iii. Pharmaceutical sales, use, storage, and distribution centers that do not manufacture pharmaceutical products.

These exemptions shall not apply to buildings or other structures that also function as Critical Facilities under another category outlined in this Article.

h. At-risk population facilities include medical care, congregate care, and schools. These facilities consist of:
   i. Elder care (nursing homes);
   ii. Congregate care serving 12 or more individuals (day care and assisted living);
   iii. Public and private schools (pre-schools, K-12 schools), before-school and after-school care serving 12 or more children);

i. Facilities vital to restoring normal services including government operations. These facilities consist of:
   i. Essential government operations (public records, courts, jails, building permitting and inspection services, community administration and management, maintenance and equipment centers);
   ii. Essential structures for public colleges and universities (dormitories, offices, and classrooms only).

These facilities may be exempted if it is demonstrated to the Town of Berthoud that the facility is an element of a redundant system for which service will not be interrupted during a flood. At a minimum, it shall be demonstrated that redundant facilities are available (either owned by the same entity or available through an intergovernmental agreement or other contract), the alternative facilities are either located outside of the 100-year floodplain or are compliant with this ordinance, and an operations plan is in effect that states how redundant facilities will provide service to the affected area in the event of a flood. Evidence of ongoing redundancy shall be provided to the Town of Berthoud on an as-needed basis upon request.

2. *Protection for critical facilities.* All new and substantially improved Critical Facilities and new additions to Critical Facilities located within the Special Flood Hazard Area shall be regulated to a higher standard than structures not determined to be Critical Facilities. For the purposes of this ordinance, protection shall include one of the following:

    a. Location outside the Special Flood Hazard Area; or
    b. Elevation of the lowest floor or floodproofing of the structure, together with attendant utility and sanitary facilities, to at least two feet above the Base Flood Elevation.

3. *Ingress and egress for new critical facilities.* New Critical Facilities shall, when practicable as determined by the Town of Berthoud, have continuous non-inundated access (ingress and egress for evacuation and emergency services) during a100-year flood event.

SECTION 12 SHORT TERM RENTALS

30-12-101 – Short-term Rentals

A. Purpose. The purpose of these regulations is to allow short-term rentals through a licensing process within the regulatory boundaries of the Town. These regulations are to assist in protecting the health, safety, and welfare of property owners, neighbors, and occupants.

B. Applicability. These regulations apply to all uses meeting the definition of short-term rental. Private covenants running with the land may restrict or prohibit short-term rentals; it is the responsibility of the property owner, not the Town, to ensure compliance with restrictive covenants.

C. License Required. No person shall rent a principal dwelling as a short-term rental as defined in this Chapter to a transient guest(s) without first obtaining a short-term rental business license issued by the Town and complying with any conditions or restrictions thereof. A short-term rental business license may be issued by the Town Administrator, or Designee, upon finding that the requirements of this Section (30-3-113) are met.

1. The short-term rental business license shall be valid for one year and is subject to annual license renewal as prescribed by the Town. Failure to complete the license renewal shall be cause for revocation of the license approval and may subject the short-term rental to the limitations of the cap.
2. In determining whether to renew a short-term rental business license, the Town Administrator, or Designee, will consider the history of any violations of the short-term rental business license and any documented complaints from nearby property owners or lessees.
3. The short-term rental business license is not transferable to any person upon sale or other transfer of ownership of the property nor is a short-term rental business license transferable from one property to another without first receiving written approval from the Town.
4. A property owner shall obtain no more than two (2) short-term rental business licenses in the Town at any given time.
5. A copy of the business license shall be prominently displayed within the short-term rental unit (such as next to the front entrance).
6. The short-term rental business license number shall be included in all advertisements with any lodging or booking agency or website designed to find customers.

D. General Standards.

1. The maximum number of short-term rentals in the Town shall not exceed fifty (50). An application for a new short-term rental shall be processed on a first-come-first-served basis. No applications for a short-term rental will be accepted if the maximum number has been met
2. A short-term rental must be a minimum of 200 feet from another short-term rental. This distance is measured from center of principal dwelling to center of principal dwelling.
3. Only one short-term rental shall be allowed on a property. A short-term rental shall not be allowed in multi-family apartment dwellings, as defined by this code.
4. A short-term rental shall only be conducted in a legally constructed dwelling unit.
5. The total number of occupants or guests of the short-term rental unit shall not exceed two (2) persons per bedroom plus two (2) additional persons per property, but in no instance shall the maximum number of occupants or guests exceed ten (10) total persons.
6. The required minimum number of guest parking spaces for the short-term rental, noted in the table below, shall be provided on-site in a garage, on the driveway, or in a parking lot for multi-unit buildings or developments. One (1) on-street parking space located within one block of the short-term rental shall be counted toward the required minimum number of on-site parking spaces for those properties that do not have a garage and/or driveway. If the short-term rental does not have the required minimum number of on-site guest parking spaces, as required in the table below, but can provide a portion of the required number, the provided number of guest

parking spaces shall determine the maximum number of allowed guests. The minimum number of off-street parking spaces required are as follows:

Number of Bedrooms in STR Unit	Number of Off-Street Parking Spaces
1-2	1
3-4	3
5	4

7. In multi-unit buildings or developments, only parking spaces that are specifically designated for the dwelling unit shall be used for the short-term rental guest parking. Guest or overflow parking for the development shall not be used as parking for the short-term rental.
8. No person shall be permitted to stay overnight in any motor vehicle, including but not limited to a recreational vehicle, travel trailer, tent, or other outdoor structures on the short-term rental property.
9. The short-term rental shall not be used and/or advertised as an event space, be it a commercial event or large social gathering such as weddings, commercial or corporate events.
10. There shall be no change to the outside appearance of the dwelling or premises or other visible evidence of the conduct of such short-term rental and shall not disturb the neighborhood character.

E. Safety Standards.

1. The short-term rental must undergo and pass a life-safety inspection or other required building inspections at the time of initial licensing and on an annual basis accompanying the annual license renewal to ensure compliance with the Town's Building Code. The Life Safety Inspection shall be conducted by the Town Building Official, or Designee.
2. Unless already equipped with an approved automatic fire sprinkler system or installing one with a building permit and/or fire permit, approved fire extinguishers shall be installed in readily accessible and visible locations for immediate use in the following locations within the short-term rental:
    a) In each room with a cooking appliance, fireplace, heating appliance, or water heater.
    b) Inside and adjacent to the door leading to a deck, porch, or patio with such appliances.
    c) At least one on each story.
3. The property owner shall ensure that the short-term rental contains the following on the premises at all times:
    a) The required number of smoke detectors in good working order;
    b) The required number of carbon monoxide detectors in good working order;
    c) Adequate and functional building egress from each sleeping room in the dwelling; and
    d) Posted egress maps.
4. A sign containing the following information shall be posted at each interior entrance and exit of the short-term rental:
    a) The property address.
    b) The maximum number of occupants or guests permitted to stay in the short-term rental as approved by the Town.
    c) Contact information for the Fire Department and Police/Sheriff Department.
    d) Contact information for the short-term rental property manager or property owner.
5. The short-term rental shall be equipped with an operations manual/users guide that is in a visible location (such as a kitchen counter or entry table). The operations manual shall include standard contents as determined and approved by the Town at the time of application.
6. The property owner shall designate a local property manager who shall be available 24 hours per day, 7 days per week to respond to complaints about or violations of law or of license terms.

Local as used herein means having a permanent address within a 20-mile radius from the short-term rental property and a 24-hour contact phone number. The designated local property manager must be able to affirmatively respond to complaints within one hour of notification of such complaint. The designated local property manager's contact information shall be posted in the operations manual located in the short-term rental. Changes to the contact information for the designated local property manager shall be provided to the Town Community Development Department within five business days of the change in contact information. The designated local property manager may be the owner of the property if they meet the *local* criteria.

7. The property owner shall provide a written notice, on a form approved by the Town, of the short-term rental approval to all property owners within 500 feet of the subject property. Such notice shall be mailed within ten (10) days following the date of short-term rental approval.
8. The property owner shall maintain and provide proof of property liability insurance adequate for a short-term rental or provide proof that property liability coverage is provided by any and all hosting platforms through which the owner will rent the short-term rental unit.

F. Taxes, Records, Enforcement.

1. A short-term rental is subject to lodging, sales, and other applicable taxes. A short-term rental business license holder who fails to collect and remit lodging taxes on a short-term rental during the license period shall not be permitted to renew the license for the following two-years, and the property may become subject to the limitations of the cap.
2. The property owner shall maintain records of occupancy for the short-term rental unit, including total number of nights the short-term rental was rented to a guest and the dates in which the short-term rental was rented by a guest. The records shall be made available to the Town, upon request, for review and inspection at any time.
3. A short-term rental business license constitutes a permit, and this Section shall be enforced in accordance with Section 5 of the Berthoud Development Code.

SECTION 13: NATURAL MEDICINE CODE

30-13-101 Authority; relationship to other laws

A. The Town Board of Trustees hereby finds and declares that it has the power to adopt this Section and the prohibitions set forth herein pursuant to Part 1 of Article 50 Colorado Natural Medicine Code of Title 44 of the Colorado Revised Statutes, and Part 3 of Article 50 License Types of Title 44 of the Colorado Revised Statutes; the Town of Berthoud Municipal Code; and Article 20 of Title 29 Local Government Regulation of Land Use, Article 15 Exercise of Municipal Powers, and Part 3 of Article 23 Zoning of Title 31 of the Colorado Revised Statutes, as may be amended from time to time.

B. This Section is known and may be cited as the "Berthoud Natural Medicine Code." Reference to the Berthoud Natural Medicine Code and the applicable section or sections thereof shall be sufficient when citing the provisions of this Section in any legal document, including, but not limited to, summons, subpoena, pleading, summons and complaint, and memorandum.

C. All natural medicine businesses shall meet the requirements of the Colorado Natural Medicine Code, all other applicable state laws, the Colorado Regulated Natural Medicine Rules, as promulgated by the department of revenue and the Natural Medicine License Rules and Regulations, as promulgated by the department of regulatory agencies. The Colorado Regulated Natural Medicine Rules and the Natural Medicine License Rules and Regulations as either or both may be amended are collectively referred to in this Section as the Colorado Natural Medicine Rules.

D. All persons cultivating natural medicine, and operating natural medicine cultivation facilities, testing facilities, products manufacturing facilities, and natural medicine healing centers shall meet the requirements of the Town of Berthoud Development Code, as provided in Chapter 30 of the Berthoud Municipal Code, including all applicable overlay district provisions and standards. For example, a person redeveloping any land for any such shall meet the requirements of the then current site design, architectural and landscaping standards.

30-13-102 Purpose

The Town Board of Trustees declares that the purpose of this Section is to provide for the regulation of natural medicine businesses within the Town for the purpose of protecting the health, safety, and welfare of Berthoud residents and guests.

30-13-103 Definitions

As used in this Section, unless the context clearly requires otherwise, the following words and terms shall have the meanings set forth in this Section. Other definitions not specifically enumerated in this Section shall be as defined, as applicable, in the Colorado Natural Medicine Code, and the Colorado Natural Medicine Rules.

Administration session means a session conducted at a healing center, or other location if permitted by the Colorado Natural Medicine Code or Colorado Natural Medicine Rules, during which a participant consumes and experiences the effects of natural medicine under the supervision of a facilitator.

Colorado Natural Medicine Code means Article 50 of Title 44 of the Colorado Revised Statutes, as may be amended from time to time.

Colorado Natural Medicine Rules means those rules governing state-licensed natural medicine businesses and state-licensed facilitators as set forth in the Colorado Code of Regulations, 1 CCR 213-1 and 4 CCR 755-1, as may be amended from time to time.

Facilitator means an individual who is 21 years of age or older; has the necessary qualifications, training, experience, and knowledge, as required pursuant to the Colorado Natural Medicine Rules, to perform and supervise natural medicine services for a participant(s); and is licensed by the director of the department of regulatory agencies division of professions and occupations to engage in the practice of facilitation.

Healing center means a facility where an entity is licensed by the state licensing authority that permits a facilitator to provide and supervise natural medicine services for a participant.

Micro-healing center means a healing center licensee tier which is not permitted to store more than 750 milligrams of total psilocin on site.

Natural medicine business means any healing center, natural medicine cultivation facility, natural medicine products manufacturer, or natural medicine testing facility, licensed to operate pursuant to the Colorado Natural Medicine Code.

Natural medicine cultivation facility means a facility licensed by the state licensing authority where regulated natural medicine is grown, harvested, and prepared in order to be transferred and distributed to either a healing center, facilitator, a natural medicine products manufacturer, or to another natural medicine cultivation facility.

Natural medicine products manufacturer means a person licensed by the state licensing authority who manufactures regulated natural medicine products for transfer to a healing center, facilitator, or to another natural medicine products manufacturer.

Natural medicine services means a preparation session, administration session, and a post-administration integration session.

Natural medicine testing facility means a public or private laboratory licensed or approved by the department of revenue division of natural medicine to perform testing and research on regulated natural medicine and regulated natural medicine products.

Participant means a person who is 21 years of age or older and who receives natural medicine services performed by or under the supervision of a facilitator.

Regulated natural medicine means natural medicine that is cultivated, manufactured, tested, stored, distributed, transported, transferred, or dispensed pursuant to the Colorado Natural Medicine Code.

State licensing authority means the executive director of the Colorado Department of Revenue.

30-13-104 Location of licensed natural medicine businesses.

A. *Where natural medicine cultivation facilities, testing facilities, and products manufacturers permitted.* Natural medicine cultivation facilities, natural medicine testing facilities, and natural medicine products manufacturers are permitted only in the Industrial M1 and M2 zone districts and on land appropriately zoned and only on land located 100' north of Mountain Avenue, south of Bunyan Avenue, east of the rail line and west of 1st Street. The distance of which is measured in a linear (straight line) manner from edge of property to edge of property.

B. *Where healing centers permitted.* Natural medicine healing centers and micro-healing centers are permitted only in the Commercial C1 and C2, and Suburban and Urban Commercial/Business zone districts except for those located on Mountain Avenue between 6th Street and 1st Street, and in addition, must be at least 1,000 feet from any childcare center, residential childcare center, preschool, elementary school, middle school, or high school. The distance shall be computed by direct measurement from the nearest property line of the land used for a school or facility to the nearest portion of the building in which natural medicine services are provided, using a route of direct pedestrian access. The distance of which is measured in a linear (straight line) manner from edge of property to edge of property.

C. *Separation of similar uses*. There shall be a distance of at least 1,000 feet between natural medicine cultivation facilities, natural medicine testing facilities, and natural medicine products manufacturers. The distance shall be computed by direct measurement from the nearest property line of the land used for a facility or manufacturer to the nearest portion of the building in which the facility or manufacturer is housed, using a route of direct pedestrian access.

D. *Permanent location required.* Natural medicine businesses must be operated from a permanent location. Natural medicine businesses are prohibited from operating from or storing regulated natural medicine or natural medicine products in a moveable, mobile, or transitory location.

1. All storage of natural medicine and natural medicine product shall be in a secured and locked container. Natural medicine cultivation facilities shall ensure that any natural medicine under cultivation is kept in an enclosed locked area.

2. No natural medicine business shall be operated as a home occupation; this does not preclude facilitators from providing natural medicine services at a person's residence in compliance with the Colorado Natural Medicine Rules and other applicable state regulations.

3. Healing centers and micro-healing centers shall not operate outside of the hours of 7 a.m. to 7 p.m., Monday through Saturday.

E. *Public View*. All doorways, windows and other openings of a natural medicine business shall be located, covered or screened in such a manner as to prevent a view into the interior of said businesses. All activities associated with natural medicine businesses shall occur indoors.

1. The primary entrance shall face the street.

F. *Processing*. The processing of natural medicine that includes the use of hazardous materials, including, without limitation, and by way of example, flammable and combustible liquids, carbon dioxide, and liquified petroleum gases, such as butane, is prohibited.

1. Nonhazardous materials used to process natural medicine shall be stored in a manner so as to mitigate and ensure odors are not detectable beyond the property boundaries on which the processing facility is located or the exterior walls of the processing facility associated with the processing of natural medicine.

2. The processing of natural medicine shall meet the requirements of all adopted Town building and life/safety codes.

3. The processing of natural medicine shall meet all of the requirements of all adopted water and sewer regulations promulgated by the applicable water and sewer provider.

G. *Lighting.* All facility lighting shall comply with the lighting standards of the Berthoud Municipal Code. In addition, primary entrances, parking lots and exterior walkways shall be clearly illuminated with downward facing lights to provide for after-dark visibility for all patrons, employees and the general public.

H. *Security*. The following shall apply to all natural medicine healing centers and all other natural medicine businesses.

1. A security plan for the secure storage of natural medicine and natural medicine products approved by the Colorado Natural Medicine Division shall be provided to the Town prior to beginning operation, and shall provide any updated plans to the Town within ten (10) business days.

2. Video surveillance recordings shall be retained for a minimum of sixty (60) days and shall be in a digital format that can be easily accessed for viewing and that ensures authentication of the recording as the full unedited version.

a. Video surveillance shall provide coverage of all facility entrances and exits.

b. Video surveillance recordings shall be maintained in a locked area on the licensed premises.

c. Video surveillance recordings shall be duplicated and stored at a secure off-site location or through a network (cloud) service that provides on-demand access to the recordings. The off-site location or network service provider shall be included in the security plan submitted to the Town and updated within seventy-two (72) hours of any change to the location or provider.

d. Video surveillance records and recordings must be made available immediately upon request of the state licensing authority, or Town police department.

e. If video surveillance or storage equipment becomes inoperable or storage network service becomes disabled, the natural medicine healing center or other natural medicine business shall cease all transactions and require all patrons to exit the building until the equipment or network service is made operable.

3. A monitored security alarm shall be present to provide coverage of all facility entrances and exits, rooms with exterior windows, rooms with interior walls or walls shared with other building tenants, roof hatches, skylights, and storage rooms containing safes or vaults.

I. *Odor from Natural Medicine Business.* An air filtration and ventilation system shall be designed and installed to ensure the odors from a natural medicine business are confined to the premises and are not detectable or discernible beyond the property boundaries of the land on which the licensed premises is located.

J. *Nuisance*. It is unlawful and deemed a nuisance under this Code to dispose of, discharge out of or from, or permit to flow from any facility associated with natural medicine, any foul or noxious liquid or substance of any kind whatsoever, including, without limitation, by-products of the natural medicine process, into or upon any adjacent ground or lot, into any street, alley or public place, or into any municipal storm sewer, sanitary sewer, potable water, or non-potable water system in the Town.

K. Waste product, remnants or byproduct. Natural medicine businesses shall provide for secure disposal of natural medicine waste product, remnants or byproduct. Natural medicine waste, remnants and/or byproduct shall not be placed in the facilities' exterior waste container, nor shall it be in any way accessible to the public.

L. *Unlawful conduct.*

It shall be deemed unlawful for any natural medicine business to violate any provision of the Berthoud Natural Medicine Code. It shall further be deemed unlawful for any natural medicine business to administer natural medicine to a minor, a visibly intoxicated person, or anyone who is not otherwise eligible or appropriate for administration of natural medicine under state laws.

M. *Unlawful cultivation of natural medicine*

1. It shall be unlawful for any person to knowingly cultivate natural medicine that cumulatively exceeds an area of more than twelve- (12) feet wide by twelve- (12) feet long in one or more cultivation areas on private property.

2. It shall be unlawful for any person that owns, occupies, or controls private property to knowingly allow the cultivation of natural medicine that cumulatively exceeds an area of more than twelve- (12) feet wide by twelve- (12) feet long in one or more cultivation areas on such private property.

3. It shall be unlawful for any person to knowingly cultivate natural medicine on private property outside of an enclosed and locked space.

4. It shall be unlawful for any person that owns, occupies, or controls private property to knowingly allow the cultivation of natural medicine on such private property outside of an enclosed and locked space.

5. It shall not be a violation off Subsections (c) and (d) above if the person cultivating natural medicine is twenty-one (21) years of age or older, if the cultivation area is locked in a dwelling on the private property; provided that if a person under twenty-one (21) years of age lives at the dwelling, the cultivation area itself is enclosed and locked; or if a person is under twenty-one (21) years of age enters a dwelling that contains external locks, the person cultivating the natural medicine shall ensure that access to the cultivation area is reasonably restricted for the duration of the person under twenty-one (21) years of age's presence in the private property.

N. *Severability.*

If any clause, sentence, or paragraph, or part of this ordinance shall be held invalid, the validity of the remainder of this ordinance shall not be invalidated or effected thereby.

30-14-101 Marijuana Businesses

~~[See note following this section regarding inclusion of regulations regarding retail marijuana stores.]~~

A. Allowed/Disallowed. It shall be unlawful to operate a marijuana business in the Town of Berthoud unless it is an allowed marijuana business as defined in the definition section of this Chapter. Unless the context requires otherwise, the term "marijuana business" as used in the definition section of this Chapter means an allowed marijuana business. It shall be unlawful to operate a retail marijuana cultivation facility or a retail marijuana products manufacturing business that is not co-located on the same parcel of land as a retail marijuana store. It shall be unlawful to operate a medical marijuana cultivation facility or a medical marijuana products manufacturing business that is not co-located on the same parcel of land as a medical marijuana store.

B. Compliance with State laws. This section applies to allowed marijuana businesses within the Town of Berthoud and terms not defined herein shall have the meaning set forth in Section 44-10-103 C.R.S., as amended. All marijuana businesses shall be comply with all applicable state statutes, as the same may be amended, and those regulations which are and will be adopted by the Colorado Department of Health and Environment and Colorado Department of Revenue .

C. Review process. Applications for Use by Special Review for any allowed, marijuana business must be submitted in conformance with Use by Special Review Permit application process and provision of this Code including the procedures found in the Subdivision and Land Use Process and Procedures Table.

D This includes applications for allowed marijuana businesses whether co-located or not.

1. Notice shall be given in accordance with the public hearing and general notice provisions found in this Chapter.

2. Unless otherwise provided in the resolution approving it, the allowed marijuana business shall be commenced within six months of the date of such approval; otherwise, the allowed marijuana business Special Use Permit shall be null and void.

E. Permitted zoning districts. Applications for all uses identified above shall only be accepted for properties located in the M1: Limited Industrial and M2: Industrial zone districts as designated north of Mountain Avenue, south of Bunyan Avenue, east of the rail line, and west of 1st Street. Allowed marijuana businesses shall not be permitted on properties located on Mountain Avenue.

F. Use by Special Review criteria. In their review of applications for any premises or facilities, the Planning Commission and Board of Trustees shall consider, at a minimum, the following factors:

1. The number, type, and availability of allowed marijuana businesses located in or near the location under consideration;

2. That the location must be over 1,000 feet away from established schools, rehabilitation facilities, licensed daycare centers and non-profit centers for the care of minors with such distance measured in a linear (straight line) manner from edge of property to edge of property;

3. That any allowed marijuana buiness may be no closer than 1,000 feet from any other medical marijuana premise or facility with such distance to be measured in a linear (straight line) manner from edge of property to edge of property;

4. The size of the building housing the marijuana business;

5. The proposed security plans;

6. The character, experience and criminal history of all persons involved as management, employees and owners;

7. Sanitary issues, health safety issues, fire safety issues, building code issues and waste water effluent issues;

8. The needs and desires of the community with respect to the requested Use by Special Review permit and specifically, why those needs are not and cannot be met by the existing facility(ies) in the Town of Berthoud at that time. It shall be incumbent upon all applicants to document how the needs of the Berthoud community are not being met by existing premises and/or facilities and to provide data to adequately address this issue.

SECTION 15 OIL AND GAS DRILLING AND PRODUCTION

30-15-101: Purpose, authorities, and application to existing facilities

A. **Intent.** The intent of this section of the Berthoud Municipal Code is to protect public health, safety, welfare, the environment, and wildlife resources within the Town of Berthoud by establishing a regulatory framework for new and existing oil and gas operations that are located in the Town. The Town hereby declares the adoption of the regulations in this section to be necessary and reasonable for the protection of public health, safety, welfare, the environment, and wildlife resources.

B. **Criteria for approval or denial.** The Town will approve oil and gas operations only in locations and in a manner that does not adversely impact the health, safety and welfare of the Town's residents in their workplaces, their homes, their schools, and public places in order to protect the public's health, safety, and welfare, and to safeguard the environment and wildlife resources. The Town will deny applications where the proposed oil and gas operations cannot be conducted in a manner that protects and minimizes adverse impacts to public health, safety, and welfare, and the environment and wildlife.

C. **Authority.** These regulations are authorized by C.R.S. § 25-8-101 *et seq*., 29-20-101 *et seq*., § 30-28-101 *et seq*., § 34-60- 101 *et seq*., § 25-7-101 *et seq*., § 30-15-401, Colorado common law related to public nuisances, and other authority as applicable.

D. **Severability.** If any section, clause, provision, or portion of these regulations should be found to be unconstitutional or otherwise invalid by a court of competent jurisdiction, the remainder of the regulations in this section shall not be affected thereby and the continued adoption of the remainder of the regulations is hereby declared to be necessary for the public health, safety, and welfare, and for the protection of the environment and wildlife resources.

E. **Preexisting facilities**. Oil and gas operations ~~that were~~ approved prior to the effective date of this Section may continue operating at their established locations and~~but~~ are~~will be~~ subject to the public health, safety, welfare, and environmental requirements as specified in this section within one year of the effective date of this section (Ordinance 1336 was adopted on July 9, 2024).

1. **Modifications of existing facilities.** Any modification of oil and gas operations or facilities that the Town determines to be substantial requires a separate Use by Special Review permit pursuant to the Subdivision and Land Use Section ~~30-3-106~~ of this Chapter. ~~and approval criteria as outlined in Section 30-11-101.B~~. A substantial modification is any physical change not required by law that substantially increases the site footprint, air emissions, traffic, noise, or risk of spills, or will significantly change the operations of the oil and gas facility. Use of a drilling rig or hydraulic fracturing equipment to re-enter, deepen, or recomplete an existing well into a new geologic formation is a substantial modification. Maintenance activities, the replacement of existing equipment, installation of emission control equipment, and the addition of equipment to fulfill mandated regulatory requirements are not substantial modifications.
2. **Annual Operator Registration.** Operators with existing oil and gas operations in the Town prior to the effective date of this section will submit the Annual Operator Registration submittal requirements within 90 days after the effective date of this section; or, if not already operating wells in the Town, within 60 days after assuming responsibility for operating existing oil and gas facilities. Operator registration must be updated and renewed annually by January 15. Annual Operator Registration submittal requirements shall include:
    a. An updated Emergency Response Plans as required by the New Oil and Gas Operation Applications and Use by Special Review Permit Section~~Section 30-11-105(E)(4)~~;
    b. An updated Leak Detection and Repair Plan as required by the New Oil and Gas Operation Applications and Use by Special Review Permit Section~~Section 30-11-105(E)(10)~~;
    c. A list of all wells and production information within the Town within the past three years;
    d. A list of any reportable safety events at the Operator's facilities within the Town over the past three years as defined by ECMC Rule 602(g) or successor rules. The Operator shall also

list any root cause analyses conducted and corrective actions taken in response to the incidents, including internal changes to corporate practices or procedures;

e. A list of any spills or releases at the Operator's facilities within the Town over the previous three years; and

f. A list of any notices of alleged violations issued by the ECMC or CDPHE related to the Operator's facilities within the Town over the previous three years.

30-15-102: Definitions

Abandonment: the permanent decommissioning of an oil and gas facility, including any single well or portion of pipeline.

Applicant: an Operator submitting an application for a new oil and gas operation pursuant to Use by Special Review processes.

APCD: the Air Pollution Control Division within the Colorado Department of Public Health and Environment.

AQCC: the Air Quality Control Commission within the Colorado Department of Public Health and Environment.

Best Management Practices ("BMPs"): practices that are designed to prevent or reduce impacts caused by oil and gas operations to air, water, soil, or biological resources, and to minimize adverse impacts to public health, safety and welfare, including the environment and wildlife resources.

CDPHE: the Colorado Department of Public Health and Environment.

Child care center: a child care center as defined in § 26-6-903(5), C.R.S. A child care center will include any associated outdoor play areas adjacent to or directly accessible from the center and is fenced or has natural barriers, such as hedges or stationary walls, at least four (4) feet high demarcating its boundary.

Class II water disposal wells: wells that inject fluids which are brought to the surface in connection with natural gas storage operations, or conventional oil or natural gas production and may be commingled with waste waters from gas plants which are an integral part of production operations, unless those waters are classified as a hazardous waste at the time of injection.

Completions or completion phase: the period of hydraulic fracturing, coiling, re-fracturing, installation of tubing, and flowback of one or more wells.

Crude oil transfer line: a piping system that is not regulated or subject to regulation by the U.S. Department of Transportation Pipeline and Hazardous Materials Safety Administration (PHMSA) pursuant to 49 C.F.R. § 195 Subpart A, and that transfers crude oil, crude oil emulsion or condensate from more than one well site or production facility to a production facility with permanent storage capacity greater than 25,000 barrels of crude oil or condensate or a PHMSA gathering system.

Cumulative impacts: the effects on public health and the environment, including the impacts to air quality, water quality, climate, noise, odor, wildlife, and biological resources, caused by the incremental impacts that a proposed new or amended operation would have when added to the impacts from other past, present, and reasonably foreseeable future development of any type on the impact area..

Development Agreement has the same definition as found in Chapter 30 of the Berthoud Municipal Code ~~Section 30-1-116(103)~~.

Drilling or drilling phase: the period in which a drilling rig is utilized to penetrate the surface of the earth with a drill bit and the installation of well casing and cement at one or more wells.

Dwelling Unit has the same definition as found in Chapter 30 of the Berthoud Municipal Code ~~Section 30-1-116(118)~~.

ECMC: the Colorado Energy and Carbon Management Commission (formerly the Colorado Oil and Gas Conservation Commission).

EPA: the United States Environmental Protection Agency.

Flaring: the combustion of natural gas during upstream oil and gas operations, excluding gas that is intentionally used for onsite processes.

Flowback: the process of allowing fluids and entrained solids to flow from a well following stimulation, either in preparation for a subsequent phase of treatment or in preparation for cleanup and placing the well into production. The term Flowback also means the fluids and entrained solids that emerge from a well during the Flowback process.

Flowline: a segment of pipe transferring oil, gas, or condensate between a wellhead and processing equipment to the load point or point of delivery to a U.S. Department of Transportation Pipeline and Hazardous Materials Safety Administration or Colorado Public Utilities Commission regulated gathering line or a segment of pipe transferring produced water between a wellhead and the point of disposal, discharge, or loading. This definition of flowline does not include a gathering line or crude oil transfer line but does include on-location flowlines such as wellhead lines, production piping, peripheral piping, produced water flowlines and off-location flowlines as defined by the Colorado Energy and Carbon Management Commission, 2 C.C.R. 404-1, 100 Series Definitions and successor regulations.

Gathering line: a gathering pipeline or system as defined by the Colorado Public Utilities Commission in the Colorado Code of Regulations or a pipeline regulated by the U.S. Department of Transportation Pipeline and Hazardous Materials Safety Administration pursuant to 49 C.F.R. §§ 195.2 or 192.8 and successor regulations.

Groundwater: subsurface waters in a zone of saturation.

Historical or Cultural Resources has the same definition as found in Chapter 30 of the Berthoud Municipal Code ~~Section 30-1-116(186)~~.

Oil and gas location: a definable area where an Operator has disturbed or intends to disturb the land surface to locate an oil and gas facility.

Oil and gas facility: equipment, buildings, structures, or improvements associated with or required for the operation of oil and gas operations.

Oil and gas operations: exploration for oil and gas and the drilling of test bores; the siting, drilling, redrilling, deepening, completion, recompletion, reworking, fracturing, refracturing, temporary abandonment, shutting-in, or abandonment of a well; production operations related to any such well including the installation of pipelines; the generation, transportation, storage and treatment of oil and gas, and exploration and production wastes; any construction, site preparation, maintenance, repair, or reclamation activities associated with such operations; and any oil and gas facility, oil and gas well site or location, production site or other facility, site or location upon or within which any of the foregoing are conducted, operated, installed, constructed, generated, treated or located within Town limits.

Open Space has the same definition as found in Chapter 30 of the Berthoud Municipal Code ~~Sections 30-1-116(290) – (292)~~.

Operator: Any individual, company, trust, foundation, or entity who exercises the right to control the conduct of oil and gas operations.

Park has the same definition as found in Chapter 30 of the Berthoud Municipal Code ~~Section 30-1-116(301)~~.

Permit: Town of Berthoud Oil and Gas Use by Special Review Permit issued pursuant to the provisions of this Section.

Pipeline: a flowline, crude oil transfer line, gathering line or any type of water or wastewater transfer line used for oil and gas operations.

Production or production phase means the operational phase of a well transporting hydrocarbons and other liquids or materials from the subsurface to the surface.

Root cause analysis means an analysis of the prime reasons, such as failures of management systems, faulty design, inadequate training, negligence, or improper changes, which led to an unsafe act or condition and resulted in an incident. If root causes were removed, the particular incident would not have occurred.

Plugging: oil and gas well plugging activities consistent with ECMC Rule 434 or any successor rules.

Reclamation: the process of returning or restoring the surface of disturbed land to its condition prior to the commencement of oil and gas operations.

Safety Data Sheets: documentation required by the United States Occupational Safety and Health Administration that includes information such as the properties of each chemical; the physical, health, and environmental health hazards; protective measures; and safety precautions for handling, storing, and transporting the chemical.

School: any operating Public School as defined in § 22-7-703(4), C.R.S., including any Charter School as defined in § 22-30.5-103(2), C.R.S., or § 22-30.5-502(6), C.R.S., or Private School as defined in § 22-30.5-103(6.5), C.R.S.

School facility: any discrete facility or area, whether indoor or outdoor, associated with a school, that students commonly use as part of their curriculum or extracurricular activities. A school facility is either adjacent to or owned by the school or school governing body, and the school or school governing body has the legal right to use the school facility at its discretion.

Seismic operation: all activities associated with acquisition of seismic data including but not limited to surveying, shothole drilling, recording, vibroseis, shothole plugging and reclamation.

Surface owner: any person owning all or part of the surface of land upon which oil and gas operations are conducted, as shown by the tax records of the county in which the tract of land is situated, or any person with such rights under a recorded contract to purchase.

Town: the Town of Berthoud, Colorado.

Town Administrator: the Town Administrator or designee of the Town of Berthoud, Colorado.

Venting: allowing natural gas to escape into the atmosphere but does not include:

a. The emission of gas from devices, such as pneumatic devices and pneumatic pumps, that are designed to emit as part of normal operations if such emissions are not prohibited by AQCC Regulation No. 7;

b. Unintentional leaks that are not the result of inadequate equipment design; and

c. Natural gas escaping from, or downstream of, a tank unless: (1) there is no separation occurring at equipment upstream of the tank; (2) the separation equipment is not sufficiently sized to capture the entrained gas; or (3) the natural gas is sent to the Tank during circumstances when the gas cannot be sent to the gathering line or the combustion equipment used to flare the gas is not operating.

Water source: water bodies that supply domestic, agricultural or municipal uses; water wells that are registered with Colorado Division of Water Resources, including household, domestic, livestock, irrigation, municipal/public and commercial wells, permitted or adjudicated springs, and monitoring wells other than monitoring wells that are drilled for the purpose of monitoring water quality changes that are not associated with oil and gas operations.

Well / Wellhead: an oil or gas well, a hole drilled for the purpose of producing oil or gas, a well into which fluids are injected, a stratigraphic well, a gas storage well, or a well used for the purpose of monitoring or observing a reservoir. Disposal wells are prohibited.

Wetlands has the same definition as found in Chapter 30 of the Berthoud Municipal Code ~~Section 30-1-116(433)~~.

Wildlife resources: fish, wildlife, and their aquatic and terrestrial habitats used for all life stages, including reproduction, rearing of young and foraging, and the migration corridors and seasonal ranges necessary to sustain robust wildlife populations.

30-15-103: Location restrictions for new facilities

A. ~~A.~~ Oil and gas operations will be located to avoid or sufficiently minimize and mitigate adverse impacts, including cumulative impacts, to surrounding land uses and to protect public health, safety, and welfare, the environment, and wildlife resources. The Town may deny a Use by Special Review permit if it determines the proposed location is not consistent with the protection of public health, safety, welfare, the environment, and wildlife resources as referenced in ~~the criteria for approval in~~ the Criteria for Approval ~~section~~ ~~s~~Section 30-11-101.B even if the Applicant meets other requirements as set forth in the Sections titled, ~~-~~New oil and gas operation applications and Use by Special Review permit, ~~30-11-105 through 30-11-107.~~Application Outcome and Development Standards, and Insurance and financial assurances

~~A.~~B. Oil and gas operations are allowed only in the following zoning districts as set forth in Chapter 30 of the Berthoud Municipal Code regarding Zoning~~Section 30-3-101~~ *et al*.: Agricultural District (AG), Light Industrial (M1), and Industrial (M2).

~~B.~~C. Within zoning districts where oil and gas operations are allowed, oil and gas locations must be located 2,000 (two thousand) feet from the property line of a parcel containing any of the following uses: an existing or platted Dwelling Unit; a School, School Facility, or licensed Child Care Center; athletic fields, auditoriums, amphitheaters, hospitals, event centers, recreational facilities, nursing homes and life care institutions; parks, trails, and open spaces as defined in Chapter 30 of the ~~by~~ Berthoud Municipal Code ~~Section 30-2-109~~; trails and trailheads open to the public; and workplaces located in the Agricultural, Light Industrial, and Industrial zoning districts.

1. Owners of Dwelling Units and workplaces with property lines located less than 2,000 (two thousand) feet from a proposed oil and gas location may give written informed consent for oil and gas operations to occur no closer than 1,000 (one thousand) feet of the property line of the Dwelling Unit or workplace.

~~C.~~D. Within zoning districts where oil and gas operations are allowed, oil and gas locations must be located 2,000 (two thousand) feet from public water supply wells and the center line of water sources including wetlands, rivers, streams, and reservoirs. A new oil and gas location may be within 1,000 (one thousand) feet of a public water supply well and the center line of water sources upon a showing by the Applicant that such a location would pose no likelihood of contamination to the public water supply well or water source.

~~D.~~E. Within zoning districts where oil and gas operations are allowed, flowlines and crude oil transfer lines shall be sited to avoid areas containing existing or proposed residential, commercial, and industrial buildings; places of public assembly; water sources; and Town open space and parks.

1. Flowlines and crude oil transfer lines shall be located a minimum of 150 (one hundred and fifty) feet from residential, commercial, and industrial buildings and the high-water mark of any water source. This distance shall be measured from the nearest edge of the flowline or crude oil transfer line.

~~E.~~F. ~~F.~~ Locating oil and gas facilities within a Federal Emergency Management Agency (FEMA) designated flood ~~-~~zone shall not be allowed.

~~F.~~G. ~~G.~~ For the purposes of this section, the setback measurement shall occur from the boundary of the oil and gas location.

~~H. Class II Water Disposal Wells shall only be allowed in Industrial (M2) zones and are subject to the permit application processes and provisions as outlined in this section.~~

30-15-104: Location restrictions for existing facilities

A. ~~A.~~ For permitted or existing oil and gas operations where all permitted wells have not entered completions, no new residential, commercial, or mixed-use building units shall be constructed within 2,000 (two thousand) feet of such oil and gas location.

B. No new residential, commercial, or mixed-use building units shall be allowed to be constructed within 2,000 (two thousand) feet of a permitted or existing oil and gas location for one year after the final well permitted for the location has been put into production.

~~B.~~C. For permitted oil and gas operations where all permitted wells have been in production for more than one year, or the permit has otherwise lapsed, been revoked, or forfeited, and is not subject to renewal or reissuance, no new residential, commercial, or mixed-use building units may be constructed within 500 (five hundred) feet of the oil and gas location.

1. The setbacks in subsection (C) shall not apply to the following occurring prior to the effective date of this section:
    a. Constructed residential units;
    b. Platted residential lots;
    c. Residential lots / units planned within a site development plan such as a Neighborhood Master Plan; or
    d. Any development on or within land zoned a planned unit development (PUD) on the effective date of this section.
2. For oil and gas facilities that have been plugged, and locations that have been abandoned or reclaimed, no residential, commercial, or mixed-use building unit may be placed within 250 (two hundred and fifty) feet of the oil and gas facility.
3. The setback from any existing pipelines shall be a minimum of 150 (one hundred and fifty) feet from the edge of the pipeline easement closest to the flowline or gathering line. Pipelines removed prior to the construction of a residential, commercial, or mixed-use building unit as part of the oil and gas location's plugging, abandonment, and reclamation shall be excepted from this requirement.
4. For the purposes of this section, the setback measurement shall occur from the boundary of the oil and gas location.

30-15-105: New oil and gas operation applications and Use by Special Review permit

A. An Application for a Use by Special Review permit shall be submitted pursuant to the processes and requirements of, ~~Section 30-3-106~~ and subject to the criteria for approval, outlined in the Use by Special Review section of this Chapter ~~Section 30-11-101.B~~. In addition to the standard application materials required for a Use by Special Review application, the additional materials and procedures outlined in this section are required to be submitted or followed for any application for a new oil and gas operation.

B. It shall be unlawful for any Operator to conduct oil and gas operations that has not been previously permitted under this Section unless a Use by Special Review permit has first been granted by the Town in accordance with the procedures defined in this Section.

C. **ECMC Oil and Gas Development Plan.** Applicant shall submit a copy of any and all materials submitted to the ECMC in support of its Oil and Gas Development Plan (OGDP), if the OGDP has been or was concurrently submitted to the ECMC at the time of the Applicant's application to the Town. ECMC OGDP materials shall be labeled distinctly and separately from those materials submitted pursuant to the Town's Use by Special Review Permit application.

D. The Applicant will follow the procedural steps for the Town's consideration of the application outlined in the Use by Special Review section of this Chapter~~process in Section 30-3-106~~. In addition to the procedural steps for the application outlined in Use by Special Review section of this Chapter~~Section 30-3-106~~, the Applicant shall request a pre-application meeting with the Town and conduct that meeting

before submitting its application. The purpose of the pre-application meeting is for the Applicant to discuss how its application will meet the provisions of this Section and to assist the Town in comprehensive planning. Prior to the pre-application meeting, the Applicant shall submit to the Town a summary of its application, a map of the proposed oil and gas location and surrounding area, preferred transportation routes to and from the proposed oil and gas location, the surface owner's name, address, contact information, and date of the signed surface use agreement, if available.

E. The following reports and documentation shall accompany any application for a Use by Special Review Permit for a new Oil and Gas Operation. The reports and plans shall indicate how the Applicant / Operator plans to comply with the Town's regulations and protect health, safety, welfare, the environment, and wildlife resources. The reports will include measures outlined in the Town's regulations. An approved application may require additional industry recognized Best Management Practices, or compliance with state or federal rules, whichever is most protective of public health, safety, welfare, the environment and wildlife resources.

1. **Alternative Location Analysis**. Applicant shall submit with its application an analysis of no fewer than two (2) alternative locations from which relevant minerals can be accessed. The analysis shall include information related to the following:

    a. A single map listing the alternative sites and the preferred site;

    b. Zoning of the alternative sites and preferred site;

    c. The proposed area of mineral development;

    d. Natural and manmade features of each site;

    e. All proximate existing and permitted oil and gas operations within one mile (5,280 feet);

    f. Distance of the alternative sites and preferred site to the following within 1 mile (5,280 feet): residences, occupied buildings, parks, trails and open space areas; water bodies; irrigation infrastructure; flood overlay districts including floodways and floodplains; and roadways;

    g. Justification(s) for the preferred site; and

    h. Reason(s) why a site is not proposed as a viable alternative.

2. **Air Quality.** Operator shall comply with the Air Quality Protection Plan and Well Liquids Unloading Plan as outlined in this Section and all applicable state and federal laws. In addition:

a. A third-party consultant approved by the Town shall conduct baseline monitoring for thirty days at the Operator's cost. Baseline monitoring shall be conducted no closer than 500 feet of a proposed oil and gas facility at select location(s) up to a distance of 1 kilometer (3,280 feet) of the oil and gas operation as deemed appropriate by the Town. Baseline monitoring shall track levels and changes in monitored air pollutant concentrations during that time period.

b. Reduced Emission (Green) Completions, as defined in ECMC Rule 903.c.(1), or a successor rule, shall be used for all completions.

c. *Venting and flaring.* Venting and flaring shall be eliminated other than during emergencies, upset conditions, leak repair, or maintenance activities. Operator shall report all venting and flaring to the Town and the reason(s) for its necessity within 24 hours. To the extent used, all flares, thermal oxidizers, or combustion devices shall be designed and operated as follows:

i. Any flaring or combustion shall utilize a flare that has a manufacturer specification of 98% destruction removal efficiency or better;

ii. The flare and/or combustor shall be designed and operated in a manner that will ensure no visible emissions during normal operation. Visible emissions means observations of smoke for any period or periods of duration greater than or equal to one minute in any fifteen-minute period during normal operation, pursuant to EPA Method 22. Visible emissions do not include radiant energy or water vapor;

iii. The flare and or combustor shall be operated with a flame present at all times when emissions are vented to it;

iv. All combustion devices shall be equipped with an operating auto-igniter;

v. If using a pilot flame ignition system, the presence of a pilot flame shall be monitored using a thermocouple or other equivalent device to detect the presence of a flame. A pilot flame shall be maintained in the flare's pilot light burner at all times when emissions are routed to the flare. A surveillance system shall be in place to monitor the pilot flame and shall activate a visible and audible alarm in the case that the pilot goes out;

vi. If using an electric arc ignition system, the arcing of the electric arc ignition system shall pulse continually and a device shall be installed and used to continuously monitor the electric arc ignition system; and

vii. Any flare, auto ignition system, recorder, vapor recovery device or other equipment used to meet the hydrocarbon destruction or control efficiency requirement shall be installed, calibrated, operated, and maintained in accordance with the manufacturer's recommendations, instructions, and operating manuals.

d. *Electrification.* All facilities shall be equipped with electric-powered engines for motors, compressors, drilling and production equipment, and pumping systems during pre-production and production activities unless no adequate electricity source is available during the necessary operation periods, or confirmation from the electrical utility cannot be obtained by the application hearing. Natural gas-powered drill rigs shall be used if an adequate electricity source cannot be secured for electric-powered drilling equipment.

e. *Air Quality Action Advisory Days*. Facilities may be subject to timing restrictions to reduce emissions on Air Quality Action Advisory Days as designated by the CDPHE in the Denver Metro / North Front Range Ozone Non-Attainment Area. Operators shall include provisions in Air Quality Plans to avoid operations during Air Quality Action Advisory Days, or, if technically infeasible or will create a safety concern, incorporate the following measures to minimize pollution on those days:

i. Minimizing vehicle traffic and engine idling;

ii. Reducing truck and worker traffic;

iii. Delaying vehicle refueling;

iv. Suspending or delaying use of fossil fuel powered equipment, if any is used on the oil and gas location;

v. Postponing construction and maintenance activities unless repairing identified leaks or releases;

vi. Postponing well maintenance and liquid unloading that would result in emission releases to the atmosphere; and

vii. Postponing or reducing operations with high potential to emit Volatile Organic Compounds (VOCs) and/or Oxides of Nitrogen (NOx).

f. *Air Quality Protection Plan.* An Air Quality Protection Plan shall be submitted with all applications to demonstrate how the development and operation of the facility will avoid, or minimize and mitigate adverse impacts to air quality if those adverse effects cannot be avoided, and will demonstrate compliance with and implementation of standards this section. Unless more protective measures are required by the EPA and/or CDPHE, the Air Quality Protection Plan shall include, but not necessarily be limited to, the following:

i. A section on air quality monitoring that describes how the Operator will conduct baseline monitoring prior to construction of the facility and continuous monitoring during all phases of the operation.

A. The Plan shall describe how the Operator will conduct continuous monitoring and collect periodic canister samples (or equivalent method capable of collecting samples that can be speciated for individual air pollutants) during the drilling, completion, and production phases of development.

B. In the event a sample is triggered that is sent to the lab for speciation, the Plan shall describe the Town and CDPHE notification processes. Depending on the circumstances, expedited lab analyses may be required by the Town at the expense of the operator.

C. The Plan shall include provisions for continuous monitoring of the location with the ability to notify the operator of increases in air contaminant concentrations. The Plan shall include monitoring for all potential emissions, including but not necessarily limited to Volatile Organic Compounds (VOCs), Hazardous Air Pollutants (HAPs), Benzene, Toluene, Ethylbenzene, and Xylene (BTEX), Hydrogen Sulfide, Oxides of Nitrogen (NOx), Particulate Matter (PM), Fine Particulate Matter (PM 2.5), Carbon Monoxide (CO) and methane (CH_4), carbon dioxide (CO_2).

D. The Plan shall include provisions for continuous emissions monitoring at frequencies of no less than once per hour during drilling and completion activities. Each monitor shall include a sampling device to automatically collect a sample that can be speciated for individual air pollutants when the continuous emissions monitor reaches a threshold concentration level defined by the third-party consultant or in response to a request by the Town. Meteorological monitoring is also required during the time period that air quality monitoring is conducted. Continuous monitoring of production operations will continue until three years have passed from the date the last well at the location goes into production, unless the Town Administrator directs otherwise in response to the detection of repeated emissions at threshold concentrations or repeated odor violations.

E. The Plan shall meet the minimum requirements of AQCC Regulation 7, part B, section VI.C., and any successor sections, and receive approval from the Air Pollution Control Division (APCD) prior to beginning air quality monitoring at the permitted site of the location. When submitting the air quality monitoring plan to APCD, the

Operator shall submit at least 90 days in advance of the pre-drilling monitoring to account for the Town's 30-days of pre-drilling air quality monitoring requirement.

F. In addition to all federal and state laws, rules and regulations, applications for new oil and gas operations shall demonstrate how exploration, construction, and standard operations of the facilities will comply with the rules and regulations of the AQCC. Information to be provided shall include all appropriate applications of notifications and permits for sources of emissions.

G. The Plan must evaluate the cumulative impacts to existing air quality including ambient air quality standards for ground-level ozone, meeting oil and gas sector greenhouse gas reduction targets, and the cumulative impacts of all approved and existing oil and gas operations and any other significant emissions sources within the Town.

H. The following Best Management Practices shall be required and included in the Plan unless a more protective system exists and is required by the EPA and/or the AQCC:

I. Emission controls of 98% or better for glycol dehydrators;

II. Pressure-suitable separator and vapor recovery units;

III. Reduction or elimination of emissions from flowline maintenance activities such as pigging, including routing emissions to a vapor collection system, with at least 98% control of emissions from pigging operations.

I. The Town retains the discretion to require more protective Best Management Practices as a condition of the Town's Development Agreement if technologically feasible.

ii. A section describing the Applicant's proposed use of tanks during all phases of its operations and its planned practices to avoid, minimize, or mitigate emissions from those tanks. Operator shall conduct tankless operations unless technically infeasible and shall not store produced water or hydrocarbon liquids in tanks on-site unless for well unloading or maintenance activities.

g. *Well Liquids Unloading Plan.* The Applicant shall submit a plan for well liquids unloading, if applicable. The Plan shall include Best Management Practices, including artificial lift, automated plunger lifts and at least 98% emission reductions when utilizing combustion to control venting shall be employed unless technically infeasible. The Plan shall also include a provision to avoid well liquids unloading during CDPHE ozone alert days unless required for safety reasons.

3. Chemical and Hazardous Materials Use, Disclosure, and Handling.

a. Applicant shall submit a Chemical and Hazardous Materials Plan to demonstrate how the Applicant will comply with reporting and handling requirements outlined in this section and applicable state and federal laws. The plan shall disclose all the hazardous and non-hazardous materials and chemicals that will be used on the site of the proposed facility, including chemicals to be used in fracking fluid, and how of the chemicals used on the facility will be handled to prevent spills.

b. Operator shall disclose its expected use of all chemicals during all phases of the oil and gas operation.

c. The Town may limit or prohibit toxic chemicals in hydraulic fracturing fluids. To prevent harm to human health and prevent odors, Operators shall be prohibited from using any toxic chemical additives in hydraulic fracturing fluids including but not limited to, the following:

i. All chemicals listed in ECMC Table 437-1 or any successor regulation;

ii. Polysorbate 80; and

iii. Perfluoroalkyl and polyfluoroalkyl substances or "PFAS chemicals," defined as a class of fluorinated organic chemicals containing at least one fully fluorinated carbon atom.

d. Drilling and completion chemicals shall be removed from the site within sixty (60) days of the drilling completion.

4. Emergency Response. Applicant shall submit and comply with an Emergency Response Plan. In its preparation of the Emergency Response Plan, the Applicant shall engage with emergency responders whose jurisdiction includes the Town and prepare a plan that includes, but not necessarily be limited to documentation of the communications and coordination with the Town and plans for the evacuation of buildings and any person within a 1 kilometer (3,280 feet) radius from the oil and gas operation. The Emergency Response Plan must detail all criteria for persons to be notified in the event of an emergency and training and necessary equipment for first responders. The Emergency Response Plan shall also include:

a. The names, addresses and phone numbers, including 24-hour numbers for at least two persons responsible for field operations, at least one of which can be on the site of any emergency within 15 minutes, as well as the contact information for any subcontractor of the Applicant engaged for well-control emergencies, which shall be updated with the Town if the names of responsible personnel change;

b. A process by which the Operator will notify neighboring residents and businesses within 1 kilometer (3,280 feet) to inform them about the on-site operations and emergencies and to provide sufficient contact information for surrounding neighbors to communicate with the Applicant;

c. An emergency evacuation plan for the oil and gas facility and a plan to evacuate any person up to 1 kilometer (3,280 feet) of the oil and gas location;

d. Emergency shutdown protocols and procedures to promptly notify the Town Administrator of any shutdowns that would have an impact to any area beyond the confines of the oil and gas location;

e. A process by which the Applicant will notify the Town Administrator and the Berthoud Fire Protection District as soon as practicable but no later than 24 hours after the incident;

f. Detailed information addressing each category of emergency that has a reasonable potential to occur at the operation and to be severe enough to present an immediate danger to public health, safety or welfare, including but not necessarily limited to: explosions; fires; gas; oil or water pipeline leaks or ruptures; well integrity issues, hydrogen sulfide or other toxic gas emissions; hazardous material vehicle accidents or spills; vandalism, and natural disasters. Examples of the most likely and worst-case

scenarios should be provided, including information on the potential response scenarios;

g. A provision that any spill outside of the containment area that has the potential to leave the facility or to threaten waters of the state, or as required by the Town-approved plan, shall be reported to the local dispatch and the ECMC Director in accordance with ECMC regulations;

h. Detailed information identifying emergency access, transportation routes to and from oil and gas locations for emergency response, and health care facilities anticipated to be used if necessary;

i. A project-specific plan for any project that involves drilling or penetrating through known zones of hydrogen sulfide gas;

j. A provision obligating the Operator to reimburse the appropriate agencies for their expenses incurred in connection to any emergency response in connection to an oil and gas operation;

k. A statement and detailed information indicating that the Operator has adequate personnel, supplies, and training to implement the plan immediately at all times during construction and operations;

l. A process by which the community can submit concerns and complaints and be assured of timely responses;

m. Details regarding coordination methods and training between the Applicant and the first responders within or outside of the Town; and

n. Provisions for cooperation with first-responder agencies in training, drills, exercises, and development of after-action reports.

o. *Emergency Response Updates*. Applicant shall include provisions in its Emergency Response Plan for periodic review and updates. The provisions shall include, at a minimum:

i. An annual review of the plan and filing of any updates with the Town Administrator and the applicable fire district. If no updates to the plan are made then the Operator shall provide notice of "No Change" in the filing required under this subsection;
ii. Within 60 days of the start of production, Operator will provide an as-built facilities map in a format suitable for input into the Town's GIS system depicting the locations and type of above and below ground facilities, including sizes and depths below grade of all oil and gas flow lines and associated equipment, isolation valves, surface operations and their functions. The information concerning flowlines and isolation valves shall be marked and treated as confidential and shall only be disclosed in the event of an emergency or to emergency responders or for the training of emergency responders; and
iii. The Operator shall have current Safety Data Sheets (SDS) for all chemicals used or stored on an oil and gas location. The SDS sheets shall be provided immediately upon request to Town officials, a public safety officer, or a health professional as required by ECMC Rules.

5. Flood Mitigation. The site shall remain in compliance with the approved permit for disturbance in the flood hazard overlay zone in conformance with the Flood Damage Prevention section found in ~~Section 12,~~ Chapter 30 of the Berthoud Municipal Code.

6. Pipelines. Operator must comply with the Pipeline Plan as outlined in this section and all applicable state and federal laws. All flowlines and crude oil transfer lines shall be sited to avoid areas containing existing or proposed residential, commercial, and industrial buildings; places of public assembly; water sources; and designated open spaces. All pipelines shall require crossing agreements, as needed. All pipelines shall be documented with the Use by Special Review Permit application. Any newly constructed or substantially modified flowlines or crude oil transfer lines shall meet the following requirements:

a. The use of pipelines to transport liquid production wastes and product is required unless technically infeasible;

b. All flowlines and crude oil transfer lines transporting process materials, production wastes, product, and any other items used or generated by an oil and gas facility shall be located to avoid existing or proposed residential, commercial, and industrial buildings, places of assembly, water source and designated open spaces. Buried flowlines and crude oil transfer lines shall be a minimum of four (4)-feet deep and shall be of detectable material which could include the addition of tracer wire to ensure detection during buried utility locating;

c. All flowlines and crude oil transfer lines shall be sited at a minimum of 150 (one hundred fifty) feet away from residential and other occupied buildings, as well as the highwater mark of any water source. This distance shall be measured from the nearest edge of the line. Increased flowline and crude oil transfer line setbacks may be required by the Town on a case-by-case basis taking into account the size, pressure, and type of line being proposed;

d. Flowlines and crude oil transfer lines shall be aligned with established roads to minimize surface impacts and reduce habitat fragmentation and disturbance unless technically infeasible;

e. Operators shall share existing pipeline rights-of-way and consolidate new corridors for pipeline rights-of-way to minimize surface impacts unless technically infeasible;

f. Operators shall use boring technology when crossing streams, rivers, irrigation ditches or wetlands with a pipeline to minimize negative impacts to the channel, bank, and riparian areas, except that open cuts may be used across irrigation ditches if the affected ditch company approves the technique;

g. As-built reporting, including the location (with GPS coordinates), materials and operating pressures of all pipelines and depicting the locations of other subsurface features or improvements crossed by such lines shall be provided to the Town in a format suitable to the Town and subject to the Town's public safety disclosure guidelines; and

h. Temporary water lines, or other means rather than truck, will be used to transport water to the site for hydraulic fracturing and other purposes unless technically infeasible. Temporary water lines shall be buried at all existing driveway and road crossings, or utilize existing culverts, if available.

j. *Pipeline plan.* Applicant shall submit a Pipeline Plan with its application detailing how it will comply with the pipeline safety provisions in this section. The Pipeline Plan must include:

i. A map that shows the location and route of each pipeline necessary for the oil and gas operations, through the lifetime of the oil and gas operations, and their approximate distances from: existing or proposed residential, commercial, or industrial buildings; places of public assembly; water sources; geologic hazards, agricultural lands; trails and open space; and public or private roads;

ii. A general description of the size of the pipelines and the materials the pipelines will carry;

iii. Whether pipelines will be co-located with proposed or existing lines;

iv. Identification of all pipeline segments that will be constructed by boring and the location of the boring operation;

v. Description of how the Applicant intends to adhere to the integrity management procedures for flowlines and crude oil transfer lines listed in ECMC Rule 1104.c-f, or any successor rules;

vi. A copy of the leak protection and monitoring plan for flowlines and crude oil transfer lines required by ECMC Rule 1104.g, or any successor rules; and

vii. Description of the measures planned to minimize land disturbance and impacts to vegetation.

7. Fugitive Dust. The Operator must comply with its Fugitive Dust Control Plan as outlined in this section and all applicable state and federal laws. All fugitive dust shall be contained to the maximum extent practicable and Operators must prevent dust from leaving their property. In addition:

a. No produced water or other process fluids shall be used for dust suppression. Safety Data Sheets (SDS) for any chemical-based dust suppressant shall be submitted to the Town prior to use.

b. The Operator will avoid creating dust or dust suppression activities within 300 feet of the ordinary high-water mark of any water body, unless the dust suppressant is water.

c. Sand, silica and similar materials must be properly stored to prevent fugitive particulates. Measures shall be used to control particulates, including proof of compliance with State-required dust control measures and imposition of an opacity requirement as tested using EPA Method 9.

d. Operations shall be conducted in such a manner that dust does not constitute a nuisance pursuant to Chapter 17~~, Section 21~~ of the Berthoud Municipal Code or hazard to public health, safety, welfare the environment, or wildlife resources.

i. If there is a complaint of dust by a nearby resident, business, or agricultural operation that is made directly to the Operator, to the ECMC, or the Town, the Operator shall determine whether the dust was caused by Operator's operations. Operator will provide a complete description to the Town of all activities occurring at the oil and location at the time of the complaint. Operator shall report its conclusions, including the factual basis for the conclusions, to the Town and the complainant within 48 hours of the complaint. If the Operator or Town determines that the dust is caused by the Operator's actions, Operator shall resolve the dust concern to the maximum extent practicable within 24 hours.

e. *Fugitive Dust Control Plan*. A Fugitive Dust Control Plan submitted with the application shall disclose techniques and methods to be utilized at the proposed location to prevent or mitigate fugitive dust generated by the construction and operations of the proposed facility and the traffic associated therewith. The plan shall demonstrate compliance with and implementation of standards in this section.

8. Historical and Cultural Resources. Operator shall assess historical and cultural resources in and around the proposed oil and gas location and share such information and proposed

mitigation measures with the Town for advance approval prior to start of site construction. If a significant surface or sub-surface archeological site is discovered during construction, the operator shall be responsible for immediately contacting the Town to report the discovery. If any disturbance of a site deemed by the State Historic Preservation Office to be a historical or cultural resource occurs, the operator shall be responsible for mitigating the disturbance to the cultural or historical property through a data recovery plan in consultation with the Town's Historic Preservation Commission and the State Historic Preservation Office.

9. Incident and Accident Reporting. In addition to following the emergency response provisions outlined in the section of this Code regarding New oil and gas operation applications and use by Special Review permits~~Section 30-11-105(E)(3)~~, the Operator shall take all reasonable and necessary steps to avoid adverse incidents or accidents. In addition:

a. *Emergency reporting*. If public health, safety, welfare, the environment, or wildlife resources are threatened, the Operator responsible for the operation causing such threat will immediately notify the appropriate emergency responders, the Town, the ECMC, and the surface owner orally.

b. *Safety Event reporting*. Within 24 hours of the cessation of any reportable safety event, as defined by the ECMC in Rule 602(g), or any successor rules, or any accident or natural event involving a fire, explosion or detonation requiring emergency services or completion of a ECMC Form 22, Operator shall submit a report to the Town Administrator that includes at least the following information, to the extent available: fuel source, location, proximity to residences and other occupied buildings, cause, duration, intensity, volume, specifics and degree of damage to properties, if any beyond the oil and gas location, injuries to persons, emergency response, and remedial and preventative measures to be taken within a specified amount of time.

c. The Town may require the Operator to conduct a root cause analysis of any reportable safety events or Grade 1 gas leaks, each as defined by the ECMC. The root cause analysis shall be prepared and submitted to the Town no later than 30 days of the request.

d. Any spill or release of unrefined and refined petroleum products, hazardous substances, fracking fluids, E&P waste, or produced fluids of greater than 25 gallons outside of secondary containment areas on a facility, including those thresholds reportable to the ECMC and CDPHE, shall upon discovery, be immediately reported to the National Response Center, ECMC, CDPHE, the Larimer County Sheriff, Larimer County Department of Health and Environment, and the Berthoud Fire Protection District.

10. Leak Detection and Repair. Operator shall conduct leak detection and repair inspections at every facility monthly or at greater frequencies if required by the APCD for any emission source using best available leak detection technologies and equipment, such as infrared cameras and hydrocarbon analyzers.

a. If an infrared camera is used, Operator shall retain an infrared image or video of all leaking components before and after repair. Records and results of those inspections, including all corrective actions taken, shall be maintained for three years and shall be made available to the Town upon request. Operator shall also retain a copy of all reports submitted to the APCD, including monthly downtime reports and semi-annual control equipment status reports for production facilities, and make those reports available to the Town upon request.

b. Operator shall report to the Town Administrator any leaks discovered by the Operator, including any leaks that are reported to the Operator by a member of the public, within 12 (twelve) hours of the discovery and / or report.

c. Repair of leaks shall occur within 48 hours of detection if feasible. If it is anticipated that a repair will take longer than 48 hours, the Operator shall provide a written explanation to the Town as to why more time is required and how the leak will be contained.

d. If the Town determines that the leak presents an imminent threat to public health, safety, welfare, the environment or wildlife resources, the Operator shall notify residents within 1 kilometer (3,280 feet) of the leak and may not operate the affected facility, component, equipment or flowline segment until the Operator has corrected the problem and the Town agrees that the affected component, equipment or flowline segment no longer poses a hazard to public health, safety, welfare, the environment or wildlife resources.

e. *Leak Detection and Repair Plan.* A Leak Detection and Repair Plan shall disclose techniques, methods and protocols that will be utilized at the proposed oil and gas facility to identify, prevent, contain, document, repair, and report leaks, and shall demonstrate how it will comply with and implement the standards in this section.

11. Lighting and Visual Impacts. The Operator's lighting and visual impacts mitigation measures must comply with the Town's Outdoor Lighting and Dark Sky Standards found in Chapter 30 of the Berthoud Municipal Code, the Visual Impacts Plan as outlined in this section, and all applicable state and federal laws. In addition:

a. Oil and gas operations will avoid or sufficiently minimize and mitigate adverse impacts associated with lighting on public health, safety, and welfare, the environment and wildlife resources. Lighting associated with oil and gas operations will be designed to protect surrounding properties, roadways, livestock, and wildlife resources from light pollution and glare. All permanent lighting or lighting higher than a perimeter wall must be downward facing.

b. Lighting at a facility must include:

i. the use of timers or motion sensing lighting;

ii. the use of full cut-off lighting; and

iii. the use of reduced light intensity colors and low-glare or no-glare lighting.

c. The location of all outdoor lighting shall be designed to minimize off-site light spillage and glare using best practices recognized by the International Dark-Sky Association.

d. For all phases of the development of the site, the application shall demonstrate compliance with the visual and aesthetic rules of ECMC and the Berthoud Municipal Code for landscaping, fencing, and lighting.

e. All facilities shall be painted with colors that are matched to or slightly darker than the surrounding landscape, and shall utilize paint with uniform, non-contrasting, nonreflective color tones based upon the Munsell Soil Color Coding System.

f. For all phases of site development, fencing shall be installed for security and visual aesthetics of the use.

g. Oil and gas operations shall minimize removal of trees and vegetation on the site.

h. Landscaping and/or fencing for screening and visual quality as viewed from public rights-of-way and neighboring residential areas shall be required within 6 months from the time of well completion and in accordance with requirements for the zoning district.

i. Facility applications shall demonstrate compliance with weed control requirements of Chapter 16 of the Berthoud Municipal Code and Forestry Department, including for access roads serving the facility.

j. *Lighting and Visual Impacts Plan.* The Applicant shall complete a plan in its application that includes the location of all outdoor lighting on the site and structures, including cut sheets (manufacturer's specifications with picture or diagram) of all proposed fixtures. The plan should also include the location and type of any emergency lighting and description of situations in which it will be used. A photometric study conducted by an independent consultant approved by the Town to measure the lumens emitted by the oil and gas facilities or operations and evaluate lighting impact on surrounding properties must also be included as part of the plan.

12. Noise and Vibrations.

a. Operator shall comply with the Noise and Vibration Mitigation Plan as outlined in this section and all applicable state and federal laws. Noise and vibration mitigation measures shall include the following:

i. Oil and gas operations may not exceed the ambient noise level by more than five decibels during daytime hours (7:00 a.m. through 7:00 p.m.) and more than three decibels during nighttime hours (7:00 p.m. through 7:00 a.m.);

ii. Oil and gas operations may not exceed the ambient noise level by more than ten decibels over the daytime average ambient noise level during fracturing operations during daytime hours. No fracturing shall be allowed during nighttime hours except for flowback operations related to fracturing as provided in subsection (iii).

iii. Oil and gas operations may not exceed the ambient noise level by more than three decibels during flowback operations during nighttime hours;

iv. Adjustments to the noise standards as set forth above in subsections (1), (2), and (3) of this section may be permitted intermittently in accordance with the following:

Table 1

Permitted Increase (dBA)	**Duration of Increase (minutes)***
10	5
15	1
20	Less than 1
* Cumulative minutes during any one hour	

v. The point of compliance for noise shall be the property line of the protected use or no less than 25 feet from the exterior wall of any protected use structure closest to the oil and gas facility.

vi. In no instance may an oil and gas operation produce dBA or dBC noise exceeding limits set by the ECMC Rule 423 or any successor rule.

vii. During construction, drilling, and completion activities, the Operator must conduct continuous noise monitoring by a third-party consultant approved by the Town for all oil and gas facilities located with 1 kilometer (3,280 feet) of any residential or occupied building.

viii. To reasonably ensure the Operator controls noise to the allowable levels set forth above, one or more of the following may be required by the Town based on the location, nature, and size of the facility and technical feasibility:

A. Quiet design mufflers (i.e., hospital grade or dual dissipative) or equal to or better than noise mitigation technologies shall be utilized for non-electrically operated equipment;

B. Motors, generators, and engines shall be enclosed in acoustically insulated housings or covers;

C. Obtain all power from utility line power or renewable sources;

D. Utilize best management practices to minimize noise impact during drilling, completions, and all phases of operation including the use of "quiet fleet" noise mitigation measures for completions;

E. Acoustical blankets, sound walls, mufflers, or other alternative methods around well drilling and completion activities to mitigate noise impact;

F. Restrictions on workover operations and/or the unloading of pipe or other tubular goods between 7:00 p.m. and 7:00 a.m.;

G. The use of electric drill rigs; and

H. The use of Tier 4 or better diesel engines, diesel and natural gas co-fired Tier 2 or Tier 3 engines, natural gas fired spark ignition engines, or electric line power for hydraulic fracturing pumps.

ix. If the Operator is in compliance with the approved noise mitigation and monitoring plan and a violation still occurs, the operator shall be notified of noncompliance and given 24 hours to correct the violation. Additional extensions of the 24-hour period may be granted in the event that the source of the violation cannot be identified after reasonable diligence by the Operator.

x. In response to a noise complaint, the Town may at any time require additional continuous noise monitoring, conducted by an approved third-party consultant, until noise concerns are abated.

xi. *Vibrations.*

A. No vibration shall be transmitted through the ground that is discernible without the aid of instruments measured at 500 feet from the abutting residential or commercial development.

B. No vibration shall exceed 0.002g peak at up to 50 cps frequency measured at 500 feet from the abutting residential or commercial development. Vibrations recurring at higher than 50 cps frequency or a periodic vibrator shall not induce accelerations exceeding 0.001g.

C. Single impulse period vibrations occurring at an average interval greater than five minutes shall not induce accelerations exceeding .01g.

D. Operator shall conduct continuous seismic monitoring during fracking operations.

E. Seismic events greater than 2.0 on Richter scale shall be reported to the Town Administrator and to ECMC.

F. If a seismic event occurs, the Town may order the cessation of operations immediately and operator can only resume work once the town is satisfied with the actions taken to reduce the likelihood of further seismicity.

G. Operations shall be immediately suspended for any seismic event measuring 4.0 or above on the Richter scale. Operator may only resume work once the town is satisfied with the actions taken to reduce the likelihood of further seismicity.

b. *Noise and Vibration Mitigation Plan.* A Noise and Vibration Mitigation Plan shall be submitted with the application to demonstrate how the facility will mitigate noise and vibration impacts to comply with the noise standards contained in this section. The plan shall include the following:

i. A minimum one-week (168 consecutive hours) baseline ambient noise analysis. The baseline analysis must include wind speed, direction, rainfall data, season conducted, and any other relevant conditions;

ii. *Noise Modeling*. Using industry-recognized noise modeling software, modeling of expected dBA and dBC noise levels from the proposed oil and gas facilities and oil and gas operations during all phases of development and operation, assuming use of and identifying all noise-mitigating equipment and measures intended for use at the proposed oil and gas facilities or oil and gas operations. All noise modeling must include a list of all noise sources, reference noise data used in the model for each source, noise attenuation specifications for any proposed noise walls, and a scaled map showing predicted noise levels;

iii. Modeled maximum A- and C-weighted decibel levels for all phases of development shall be presented using contour maps from the facility (combining noise sources) at 350 feet, 500 feet, 1,000 feet, 2,000 feet, and to the property line of the adjacent properties. Contour maps shall be provided that demonstrate both unmitigated and mitigated decibel levels; and

iv. A plan of proposed mitigation measures to be implemented by the facility during each phase of development shall be provided to ensure compliance with the maximum permissible noise levels as listed in this section.

13. Odor. The Operator's odor mitigation measures must comply with the Odor Mitigation Plan as outlined in this section and all applicable state and federal laws. In addition, the Operator shall implement the following measures:

a. Oil and gas facilities must not emit odor detectable after dilution with one or more volumes of odor free air to four volumes of clean air at any dwelling unit;

b. If a resident within 1 kilometer (3,280 feet) of a facility complains of odor (either directly to the Operator, to the ECMC, or to the Town) the Operator shall determine whether the odor is caused by Operator's actions, by, at a minimum, conducting two odor measurements within a period of one hour – these measurements being separated by at least fifteen (15) minutes and taken 25 feet from the exterior wall of the residence. Operator will also provide a complete description of all activities occurring at the oil and gas location at the time of the complaint to the Town. Operator shall report its conclusions, including the factual basis for the conclusions, to the Town and the complainant within 48 hours of the complaint. If the Operator or Town determines that the odor is caused by Operator's operations, the Operator shall resolve the odor concern within 24 hours of receiving the complaint;

c. If it is determined that the operator caused odors in violation of the odor requirements outlined in this Code, the operator may be required to cease or change operations, notify affected residents, and/or temporarily relocate residents until the facility is no longer causing a violation;

d. If odor persists after an Operator complies with this Code, and there are reasonable grounds to believe the location continues to cause the odor, the Town may require the Operator to conduct additional investigation, which may include audio, visual, and olfactory inspections or instrument-based leak inspections, and take appropriate corrective action based on the results of investigation and the severity of the odor; and

e. In response to odor complaints the Town may require an Operator to collect and analyze a speciated air sample to measure for volatile organic compounds or hazardous air pollutants known to cause potential health risks and have acute health guideline values identified by the Agency for Toxic Substances and Disease Registry and/or CDPHE to further evaluate the risk of the odor. Speciated air sample collection shall be done utilizing a third-party vendor approved by the Town;

f. *Odor Mitigation Plan.* The Applicant shall submit an Odor Mitigation Plan with its application indicating how its operations will prevent odors from adversely impacting the public and wildlife resources and further demonstrating compliance with the standards in this section. The Odor Mitigation Plan shall include investigation and control strategies which shall be implemented upon receipt of odor complaint(s), the determination that the facility is causing the odor, or as required by the Town. These odor control strategies shall include at least the following:

i. Odorants, that are not a masking agent, shall be added to chillers and/or mud systems;

ii. Additives to minimize odors from drilling and fracturing fluids except that Operators shall not mask odors by using masking fragrances;

iii. The utilization of filtration systems and/or additives to minimize, not mask, odors from drilling and fracturing fluids in the drilling and flowback processes;

iv. Increasing additive concentration during peak hours provided additive does not create a separate odor. Additives must be used per the manufacturer's recommended level;

v. The utilization of enclosed shale shakers to contain fumes from exposed mud where safe and feasible;

vi. Drilling activities shall utilize minimum low odor Category IV or better drilling fluid or non-diesel-based drilling muds that do not contain benzene, toluene, ethylbenzene, or xylene (BTEX). Operator will employ the use of drilling fluid with low to negligible aromatic content during drilling operations after surface casing is set;

vii. Removing drilling mud from drill pipe each time it is removed from the well and wiping down drill pipes as they exit the well bore each time;

viii. Drill cuttings shall be covered to prevent odor while being transported by truck; and

ix. A prohibition of the use of D-822 drilling mud unless its use is required by ECMC.

14. Reclamation. Reclamation of the oil and gas operation must comply with the Reclamation Plans as outlined in this section and all applicable state and federal laws.

a. *Interim Reclamation*. In addition to following the ECMC rules related to interim reclamation, the Operator shall comply with the following provisions:

i. There shall be no permanent storage of equipment (i.e., vehicles, trailers, commercial products, chemicals, drums, totes, containers, materials, and all supplies not necessary for uses on an oil and gas location) on the site of an oil and gas location.

i. When not in use, or if no longer needed for on-site operations, all equipment not being used on the site shall be removed from the site within thirty (30) days of completion of the work, weather conditions permitting.

b. *Final Reclamation*. In addition to following the ECMC rules related to final reclamation, the Operator shall:

i. Give notice to the Town Administrator of the commencement and completion of final reclamation activity;

ii. Provide coordinates for the location of the decommissioned well(s), and any associated pipelines in a format suitable for input into the Town's GIS system; and

iii. Permanently mark the plugged and abandoned well with a brass plaque set in concrete similar to a permanent bench-mark to monument its existence and location. Such plaque shall contain all information required on a dry hole marker by the ECMC. The exact location will be recorded with the Larimer County clerk and recorder.

c. Plugging and Abandonment notice is required to ensure adequate public notice and traffic management, and review of final reclamation plans. At least 72 hours prior to commencing plugging and abandonment operations, Operator will provide to the Town:

i. A timeline for work to be accomplished;

ii. Notice that has been submitted to the surface owner and all residents within 1 kilometer (3,280 feet);

iii. The Form 4 Sundry Notice supplied to the ECMC to notify state of the plugging and abandonment; and

iv. A Final Reclamation Plan in accordance this section and approved by the surface owner.

d. *Reclamation Plans.* The Applicant shall submit an Interim Reclamation Plan and a Final Reclamation Plan with its application. Both plans shall outline how the Applicant will comply with Berthoud Municipal Code and ECMC rules related to site reclamation.

i. The Interim Reclamation Plan shall also, at a minimum, include:

A. A site plan that defines the "working pad surface" limited to those areas necessary for production;

B. A written description of existing vegetation in the area; and

C. A plan for revegetation and any landscaping outside of working pad surface, or for reclaiming to the final land use as designated by the surface owner, and how it will be watered and maintained.

ii. The Final Reclamation Plan shall also, at a minimum, include:

A. A timeline for the removal of all equipment from the location; and

B. A detailed demonstration of how the Operator will restore the site surface area to the condition it was prior to the oil and gas operation.

15. Spill Prevention, Containment, and Reporting. The Operator must comply with the provisions in its Spill Prevention and Containment Plan as outlined in this section and all applicable state and federal laws. In addition:

a. Unloading areas shall be designed to contain potential spills or direct spills into other secondary containment areas;

b. Containment systems constructed of steel rimmed berms, or similar impervious surfaces that are equal to or better, shall be used for all secondary containment areas. Berms or other secondary containment devices around crude oil, condensate, and produced water storage tanks enclosing an area sufficient to contain and provide secondary containment for 150% of the largest single tank. Berms or other secondary containment devices shall be sufficiently impervious to contain any spilled or released material. Inspection of all berms and containment devices shall occur at regular intervals, but not less than monthly. Maintenance of all berms and containment devices must remain in good condition;

c. All spills or releases, whether reportable or not, shall be cleaned up immediately and to the satisfaction of the local emergency response authorities, in accordance with the Operator's Spill Prevention and Containment Plan. Any leak, release, or spill will be cleaned up according to applicable Town, county, state and federal laws. Operators will notify the Town immediately upon completion of clean-up activities.

d. A root cause analysis of any spill, leak, or release of any substance other than fresh water that resulted in serious bodily injury or fatality, serious environmental harm, was a Grade 1 gas leak as defined by the ECMC, or is otherwise requested by the Town must be submitted to the Town within 30 days of the leak, spill, or release.

e. *Spill Prevention and Containment Plan.* The Applicant shall submit a Spill Prevention and Containment Plan with all facility applications. The plan shall outline techniques, methods, and protocols to be utilized at the proposed facility to prevent, contain,

clean up, document, and report any spills or releases, and shall demonstrate compliance with and implementation of the standards in this section.

16. Transportation Impacts. The Applicant will be required to enter into a long-term road maintenance and improvements agreement, and a Development Agreement with the Town. These Agreements shall be presented with the Use by Special Review application at the public hearing. Additionally, Operator shall adhere to the provisions in the Traffic Impact Analysis and Routing Plan as detailed in this section and the following the provisions:

a. ~~a.~~ All private roads used to maintain access to the tank batteries or the well site shall be improved and maintained according to the following standards:

i. The first 50 feet of access drive from the edge of pavement of the adjacent road will be paved, or made of an approved all weather surface, and the remaining portions of the access drive shall be composed of a minimum of six inches of compacted Class 5 road base.

~~i.~~ii. The access drive entrance shall include returns with a 30 foot radius.

~~——~~Iii. A mud and debris tracking pad shall be located at the end of the paved portion of the access drive. ~~*Tank battery access roads*. Access roads to any tank batteries shall be subject to review by the Town Engineer in accordance with the following minimum standards:~~

~~ii.~~ iv. Access road shall be ~~A. A~~an all-weather ~~graded gravel~~ roadway having a prepared subgrade and an aggregate base course surface a minimum of six inches thick compacted to a minimum density of 95 percent of the maximum density determined in accordance with generally accepted engineering sampling and testing procedures. The aggregate material, at a minimum, shall meet the requirements for Class ~~3~~5~~,~~ Aggregate Base Course as specified for aggregate base course materials in the Colorado Department of Transportation's "Standard Specifications for Road and Bridge Construction," latest edition; and

Graded so as to provide drainage from the roadway surface and constructed to allow for cross-drainage of waterways (such as roadside swales, gulches, rivers, creeks and the like) by means of an adequate culvert pipe. Adequacy of the pipe is subject to approval of the Town Engineer; and

Maintained so as to provide a passable roadway free of ruts at all times.

b. ~~ii. *Location access roads*. Access roads to the oil and gas location shall be subject to review by the Town Engineer in accordance with the following minimum standards:~~

~~A. A graded, dirt roadway compacted to a minimum density of 95 percent of the maximum density determined in accordance with generally accepted engineering sampling and testing procedures and approved by the Town Engineer.~~

~~B. Graded so as to provide drainage from the roadway surface and constructed to allow for cross-drainage of waterways by means of an adequate culvert pipe. Adequacy of the pipe shall be subject to approval by the Town Engineer.~~

~~C. Maintained so as to provide a passable roadway generally free of ruts.~~

~~iii.~~ *Public access roads*. An extra-legal vehicle or load permit shall be required for all extralegal vehicles or loads as defined in Sections 42-4-401 through 42-4-414, C.R.S., as amended, which use Town streets. Said permit, if required, shall be obtained from the Town Engineer prior to such use. The Operator shall comply with all Town and state regulations regarding weight limitations on streets within the Town, and the Operator shall minimize extralegal truck traffic on streets within the Town.

~~b~~c. Every permit issued by the Town shall require the Applicant to pay a fee that is sufficient to pay the estimated cost for all impacts which the proposed operation may cause to facilities owned or operated by the Town or used by the general public, including, but not limited to:

i. Repair and maintenance of roads;

ii. Bridges and other transportation infrastructure;

iii. Improvements made or to be made by the Town to accommodate the operations and to protect public health, safety and welfare; and

iv. Costs incurred to process and analyze the application, including the reasonable expenses paid to independent experts or consultants.

~~c~~d. The Town shall establish a mechanism to assess and obtain payment of such fees, subject to the right of the Town to request additional funds if the fees prove to be insufficient, or to refund surplus funds to the Operator if the fees paid exceed the true cost of the impacts.

~~d~~e. The Town may further require that the Applicant post a bond in an amount to be set during the Use by Special Review, as security in the event additional damages occur to facilities owned or operated by the Town or used by the general public.

~~e~~f. As a condition of issuance of the permit and on an as-needed basis, the Town may require that additional site-specific measures be undertaken by the Operator in order to protect and preserve facilities owned or operated by the Town or used by the general public.

~~f~~g. *Traffic Impact Analysis and Routing Plan*. A Traffic Impact Analysis and Routing Plan shall be submitted with all applications. The plan shall disclose routing alternatives and transportation infrastructure improvements ~~proposed~~ for the proposed operation to mitigate projected transportation impacts and demonstrate compliance with and implementation of the standards in this section. The Traffic Impact Analysis and Routing Plan shall be prepared by a third-party vendor approved by the Town. The Traffic Impact Analysis and Routing Plan shall include:

i. The proposed haul routes to and from the site, and public and private roads that traverse or provide access to the proposed operation;

ii. The estimated number of vehicle trips per day for each type of vehicle, estimated weights of vehicles when loaded, a description of the vehicles, including the number of wheels and axles of such vehicles and trips per day;

iii. The identification of impacts to Town roads and bridges related to facility construction, operations, and ongoing new traffic generation;

iv. A plan to mitigate transportation impacts that will typically include, but not be limited to, a plan for traffic control, ongoing roadway maintenance, and improving or reconstructing Town roads;

v. Detail of access locations for each well site including sight distance, turning radius of vehicles and a template indicating this is feasible, sight distance, turning volumes in and out of each site for an average day and what to expect during the peak hours;

vi. A truck routing map and truck turning radius templates with a listing of required improvements are necessary at intersections along the route;

vii. Restriction of non-essential traffic and prohibition of any class 7 vehicles and above to and from any oil and gas location to periods outside of peak morning and afternoon traffic periods during weekdays (7:00-8:00 a.m. and 3:00-6:00 p.m.); and

vii. Identification of need for any additional traffic lanes, which would be subject to the final approval of the Town.

17. Water quality protection. Water quality protection and sampling shall comply with the Water Quality Control Plan as outlined in this section and all applicable state and federal laws. To avoid or minimize adverse impacts to surface and sub-surface water bodies from oil and gas facilities, the following measures will be required:

a. *Water source sampling and testing.* Using records of the Colorado Division of Water Resources, the Applicant shall identify and offer to sample all available water sources located within one-half mile of the projected track of the borehole of a proposed well and within one-half mile of the radius of the proposed location. All sampling must be conducted by a third-party consultant approved by the Town. The Applicant / Operator shall provide all water source test results to the Town and maintain records of such results. Sampling requirements include:

i. Initial baseline samples and subsequent monitoring samples shall be collected from all available water sources within one-half mile of the projected track of the borehole of a proposed well and one-half mile radius of the oil and gas location;

ii. Initial collection and testing of baseline samples from available water sources shall occur within twelve months prior to the commencement of drilling a well, or within twelve months prior to the re-stimulation of an existing well for which no samples were collected and tested during the previous twelve months;

iii. Post-stimulation samples of available water sources shall be collected and tested pursuant to the following time frame:

A. One sample within six months after completion;

B. One sample between twelve and eighteen months after completion; and

C. One sample between sixty and seventy-two months after completion.

b. For multi-well pads, collection shall occur annually during active drilling and completions.

c. Operator shall collect a sample from at least one up-gradient and two down-gradient water sources within a one-half mile radius of the oil and gas location. If no such water sources are available, operator shall collect samples from additional water sources within a radius of up to one mile from the location until samples from a total of at least one up-gradient and two down-gradient water sources are collected. Operators should give priority to the selection of water sources closest to the location.

d. An Operator may rely on existing groundwater sampling data collected from any water source within the radii described above, provided the data was collected within the twelve months preceding the commencement of drilling the well, the data includes measurement of all the constituents measured in Table 2, and there has been no significant oil and gas activity within a one-mile radius in the time period between the original sampling and the commencement of drilling the well.

e. Operator shall make reasonable efforts to obtain the consent of the owner of the water source to be sampled. If the Operator is unable to locate and obtain permission from the surface owner of the water source, the Operator shall advise the Town Administrator that the Operator could not obtain access to the water source from the surface owner.

f. Operator shall test for the analytes listed in Table 2, and subsequent testing as necessary or appropriate as determined by the Town.

g. Operator shall follow standard industry procedures in collecting samples, consistent with the ECMC model Sampling and Analysis Plan.

h. Operator shall report the location of the water source using a GPS with sub-meter resolution.

i. Operator shall report on damaged or unsanitary well conditions, adjacent potential pollution sources, odor, water color, sediment, bubbles, and effervescence.

j. Operator shall provide copies of all test results described above to the Town Administrator, the ECMC, and the water source owners within three months after collecting the samples.

k. *Subsequent sampling*. If sampling shows water contamination, the Town may require additional measures, including but not limited to the following:

i. If free gas or a dissolved methane concentration level greater than one milligram per liter (mg/l) is detected in a water source, determination of the gas type using gas compositional analysis and stable isotope analysis of the methane (carbon and hydrogen);

ii. If the test results indicate thermogenic or a mixture of thermogenic and biogenic gas, an action plan to determine the source of the gas;

iii. Immediate notification to the Town Administrator, the ECMC, and the owner of the water source if the methane concentration increases by more than five mg/l between sampling periods, or increases to more than ten mg/l;

iv. Immediate notification to the Town Administrator, the ECMC and the owner of the water source if BTEX and/or TPH are detected as a result of testing. Such detections may result in required subsequent sampling for additional analytes;

v. Further water source sampling in response to complaints from water source owners; and

vi. Timely production and distribution of test results, well location, and analytical data in electronic deliverable format to the Town Administrator, the ECMC and the water source owners.

l. All water source testing shall be conducted by a qualified independent professional consultant approved by the Town at the Operator's expense.

Table 2. Water Quality Analytes	
GENERAL WATER QUALITY	Alkalinity Conductivity & TDS Ph Dissolved Organic Carbon (or Total Organic Carbon)Bacteria Hydrogen Sulfide
MAJOR IONS	Bromide Chloride Fluoride Magnesium Potassium Sodium Sulfate Nitrate + Nitrite as N (total)
METALS	Arsenic Barium Boron Chromium Copper Iron Lead Manganese Selenium Strontium
DISSOLVED GASES AND VOLATILE ORGANIC COMPOUNDS	Methane Ethane Propane BTEX as Benzene, Toluene, Ethylbenzene, Xylenes Total Petroleum Hydrocarbons (TPH)

OTHER	Water Level Stable isotopes of water (Oxygen, Hydrogen, Carbon) Phosphorus

m. *Water Quality Control Plan.* Applicant shall submit a Water Quality Control Plan that details practices that will avoid impacts to water quality, comply with this section, and comply with all applicable state and federal water quality rules. The Plan shall include, but not necessarily be limited to plans for water quality testing, the prevention of illicit or inadvertent discharges and containment of pollutants in case of a discharge, and stormwater discharge management.

18. Water supply. The Applicant / Operator's acquisition and use of water must comply with Berthoud Municipal Code Section 30-2-120, the Water Supply Plan as outlined in this section, and all applicable state and federal laws. In addition:

a. The water supply used must be the least detrimental to the environment among the available sources and adequate to meet the needs of the oil and gas operation;

b. The water supply shall be legally and physically available, dependable, and sustainable. Operator will implement reuse and recycling to the greatest extent practicable;

c. The operation shall not use water from the Town's municipal water supply unless approved by the Board of Trustees; and

d. Any necessary water agreements must be secured prior to any oil and gas operations commencing.

e. *Water Supply Plan*. Applicant shall submit a Water Supply Plan prepared by a certified professional engineer approved by the Town that demonstrates compliance with the applicable standards in this section and includes:

i. A description of the physical source of the *water* that the Operator proposes to use to serve each phase of the operation;

ii. A list of all available physical sources of *water* other than the Town's municipal *water* for the operation, and if multiple sources are available, an analysis to determine which source is least detrimental to the environment;

iii. The amount of *water* needed for each phase of the operation;

iv. Proof that the source of *water supply* is physically and legally available and dependable for each phase of the operation;

v. A description of how *water* will be delivered to the site for each phase of the operation;

vi. A description of *water* efficiency methods;

vii. The amount of produced water expected to be recycled or reused; and

viii. The amount of wastewater produced, and disposal *plans* for wastewater.

19. Waste Management. Applicant must submit a Waste Management Plan for the disposal of all waste generated by the oil and gas facilities or oil and gas operations, including use of truck or pipeline transport with details of anticipated truck trips. The Plan shall include provisions for the recycling of drilling, completion, and flowback fluids unless technically infeasible. The Plan will identify whether waste materials will be stored on site and, if so, how such storage will avoid adverse impacts to the oil and gas facility parcel(s), surrounding lands, water, natural resources, wildlife resources, air quality, and public health, safety, and welfare. The Plan must specify whether on-site storage of drilling mud is contemplated and, if so, how the Applicant will eliminate odors leaving the site. The Plan must also include a description of any sources of technically enhanced naturally occurring radioactive material used in or generated by the oil and gas operations and how those materials will be disposed. The Operator shall adhere to its Plan and all applicable state and federal laws related to waste management during its operations.

20. Wildlife. Operators must comply with the Environmental Considerations section of the Design Standards section found in Chapter 30 of the Berthoud Municipal Code ~~Section 30-2-119~~, all applicable state and federal laws related to wildlife resources and the Applicant's Wildlife Conservation Plan as outlined in this section.

a. *Wildlife Conservation Plan*. The Applicant shall submit a Wildlife Conservation Plan that contains a map of ecologically important areas including critical wildlife habitat areas, riparian areas, rivers, water bodies, wetlands, potential conservation areas as identified by the Colorado Natural Heritage Program Species of Concern listing, Tier 1 and Tier 2 species as identified by the Colorado Parks and Wildlife, and of federally-designated threatened or endangered species, as mapped by other applicable federal and state governmental agencies or discovered upon inspection, on and within one mile of the parcel(s) on which the oil and gas facilities are proposed to be located. It shall also include, at a minimum, the following information:

i. A description of the ownership, location, type, size, and other attributes of the wildlife habitat on the site;

ii. A description of the populations of wildlife species that inhabit or use the site including a qualitative description of their spatial distribution and abundance;

iii. An analysis of the potential adverse impacts of the proposed development on wildlife and wildlife habitat on or off-site;

iv. A list of proposed mitigation measures and an analysis of the probability of success of such measures;

v. A plan for implementation, maintenance, and monitoring of mitigation measures;

vi. A plan for any relevant enhancement or restoration measures; and

vii. A demonstration of fiscal, administrative, and technical competence of the applicant or other relevant entity to successfully execute the plan.

30-15-106: Application Outcome and Development Standards

A. **Application Outcome.** An application for a Use by Special Review will either be approved, approved with conditions, or denied. Denial shall occur if the proposed oil and gas facilities or operations cannot be conducted in a manner that protects public health, safety, and welfare, the environment and wildlife resources. Applications approved will be subject to any conditions placed on approval to ensure compliance with the standards listed in the Application Outcome and Development Standards found in this Section and the Use by Special Review standards found in Chapter 30 of the Berthoud Municipal Code. ~~30-11-106 and Section 30-3-106~~. An approved application will incorporate the plans submitted by the Applicant pursuant to the New oil and gas operation applications and Use by Special Review permit s~~S~~ection ~~30-11-105~~, unless the Town requires additional industry recognized Best Management Practices

or compliance with ECMC, CDPHE, and / or EPA rules, whichever is most protective of public health, safety, welfare, the environment and wildlife resources.

B. **Development Standards.** The following Development Standards can be found in the the New oil and gas operation applications and Use by Special Review permit section and establish minimum standards of operation at sites in the Town:

1. Air quality standards, the Air Quality Protection Plan, and the Well Liquids Unloading Plan ~~as outlined in Section 30-11-105(E)(2)~~;
2. Chemical and Hazardous Materials Use, Disclosure, and Handling provisions and the Chemical and Hazardous Materials Plan ~~as outlined in Section 30-11-105(E)(3)~~;
3. Emergency Response standards and the Emergency Response Plan ~~as outlined in Section 30-11-105(E)(4)~~;
4. Flood mitigation measures ~~as outlined in Section 30-11-105(E)(5)~~;
5. Flowlines and crude oil transfer lines provisions and the Pipelines Plan ~~as outlined in Section 30-11-105(E)(6)~~;
6. Fugitive Dust standards and the Fugitive Dust Control Plan ~~as outlined in Section 30-11-105(E)(7)~~;
7. Historic and Cultural Resources protections ~~as outlined in Section 30-11-105(E)(8)~~;
8. Incident and Accident Reporting provisions ~~as outlined in Section 30-11-105(E)(9)~~;
9. Leak Detection and Repair provisions and the Leak Detection and Repair Plan ~~as outlined in Section 30-11-105(E)(10)~~;
10. Lighting and visual impacts provisions and the Lighting and Visual Impacts Plan ~~as outlined in Section 30-11-105(E)(11)~~;
11. Noise and vibration provisions and the Noise and Vibration Mitigation Plan ~~as outlined in Section 30-11-105(E)(12)~~;
12. Odor mitigation provisions and the Odor Mitigation Plan ~~as outlined in Section 30-11-105(E)(13)~~;
13. Reclamation provisions and the Reclamation Plans ~~as outlined in Section 30-11-105(E)(14)~~;
14. Spill prevention, containment, and reporting and the Spill Prevention and Containment Plan ~~as outlined in Section 30-11-105(E)(15)~~;
15. Transportation impacts and the Traffic Impact Analysis and Routing Plan ~~as outlined in Section 30-11-105(E)(16)~~;
16. Water quality protection and the Water Quality Control Plan ~~as outlined in Section 30-11-105(E)(17)~~;
17. Water supply provisions and the Water Supply Plan ~~as outlined in Section 30-11-105(E)(18)~~;
18. Waste Management provisions ~~as outlined in Section 30-11-105(E)(19)~~; and
19. Wildlife protection and the Wildlife Conservation Plan ~~as outlined in Section 30-11-105(E)(20)~~.

C. **Variances.** Any request for a variance from the Development Standards outlined in this section shall indicate how the proposed variance would be similarly protective of public health, safety, welfare, the environment, and wildlife resources and follow the variance procedures outlined in Chapter 30 of the Berthoud Municipal Code ~~Section 30-3-108~~.

D. **Annual Operator Registration.** Operators of any new oil and gas facilities approved after the effective date of this section shall submit an Annual Operator Registration to the Town within 60 days of approval of any new facility. Operator registration must be updated and renewed annually by January 15 ~~July 1~~. Annual Operator Registration submittal requirements shall include:

1. A list of all wells and production within the Town during the previous three years;
2. List of any reportable safety events from its facilities within the Town during the previous three years as defined by ECMC Rule 602(g) or successor rules. Operator shall also list any root cause analyses conducted and corrective actions taken in response to the incidents, including internal changes to corporate practices or procedures;
3. List of any spills or releases from its facilities within the Town during the previous three years; and
4. List of any notices of alleged violations issued by the ECMC or CDPHE related to its facilities during the previous three years.

E. **Memorandum of Understanding.** A condition of approval for any new oil and gas operation application is a signed Memorandum of Understanding (MOU) between the Applicant / Operator and the Town. The MOU shall include, but not necessarily be limited to, the following conditions:

1. The Operator agrees to abide by all Town, state, and federal regulations applicable to the oil and gas operation, and the imposition of penalties for noncompliance pursuant to the section titled Inspctions, enforcement and fines found in Chapter 30 of Berthoud Municipal Code regarding oil and gas drilling and production~~Section 30-11-108~~;
2. The Operator agrees to cover any costs to repair the Town's transportation infrastructure necessitated by a proposed new oil and gas operation; and
3. The Operator shall reimburse the Town for all inspection costs necessary to inspect facilities approved under this section to determine compliance with this section and any permits issued by the Town. Such fees shall include actual costs incurred by the Town, including but not limited to employee or contractor time, employee or contractor supervision, legal and consulting fees, necessary equipment rental, mileage, and overhead. Costs may also include necessary personnel and time to analyze operator-submitted inspection and spill reports.

F. **Application fee**. An application for approval of a new oil and gas facility shall be accompanied by an application fee set by the Town. The Applicant is also responsible for all costs of reviewing and processing the permit application, including but not limited to the costs of legal, consultant, and referral agency review of the permit application, the pre-application conference, completeness determination, and all hearings and meetings on the permit application. All additional costs must be paid in full prior to final action by the Town on the permit application. A Memorandum of Understanding regarding payment of fees is an application requirement.

30-15-107: Insurance and financial assurances

A. Risk Management Plan. The Applicant shall submit a Risk Management Plan with its application. The plan shall include risk identification, frequency, responsibilities, assessment, response, planning mitigation, and methods of risk avoidance and control that implement techniques to prevent the accident/loss and reduce the impact after an accident/loss occurs. It shall also include a summary of how the Applicant will comply with the insurance and financial assurance requirements in this section. Operators shall periodically update and revise the plan, but at least every three years and after any incident listed in the New oil and gas operation applications and Use by Special Review permit section~~Section 30-11-105(E)(9~~).

B. Insurance. Operator shall maintain or cause to be maintained, with insurers authorized by the state of Colorado and carrying a financial strength rating from A.M. Best of no less than A-VII (or a similar rating from an equivalent recognized ratings agency), at a minimum, the following types of insurance with limits no less than the amounts indicated:

1. Commercial general liability insurance on an occurrence form including coverage for bodily injury and property damage for operations and products and completed operations with limits of not less than $1,000,000 for each occurrence, $2,000,000 General Aggregate and $2,000,000 Products/Completed Operations Aggregate. The Town requires the Products/Completed Operations coverage to be provided three years after completion of construction. An endorsement must be included with the certificate;

2. Automobile liability insurance with limits of not less than $1,000,000 each accident covering owned, hired and non-owned vehicles;

3. Workers' compensation and Employer's Liability insurance must be maintained for all employees, providing statutory coverage and Employer's Liability insurance with minimum limits of $100,000 each accident, $100,000.00 disease-each employee and $500,000 disease policy limit;

4. Control of well/operators extra expense insurance with limits of not less than $25,000,000 covering the cost of controlling a well that is out of control or experiences a blowout. Coverage shall include re-drilling or restoration expenses, legal liability for pollution-related bodily injury or property damage resulting from an out of control well event, loss of equipment and evacuation expense;

5. Umbrella/excess liability insurance in excess of general liability, employer's liability, and automobile liability with limits no less than $25,000,000 per occurrence; provided, however, that for so long as all pre-production phases are ongoing at the oil and gas location, Operator will maintain such insurance with limits no less than $100,000,000 per occurrence; and

6. Environmental liability/pollution legal liability insurance for gradual pollution events, providing coverage for bodily injury, property damage or environmental damage with limits no less than with limits of not less than $25,000,000 per pollution incident. Coverage shall include claims arising during transportation and at non-owned waste disposal sites. Should this insurance be on a claims-made basis the retroactive date must precede the date field activities were initiated.

7. *Contractors.* Operator shall require adequate insurance of its contractors and subcontractors. Operator agrees that it shall be responsible for any damage or loss suffered as a result of negligence by Operator or any subcontractor with these requirements.

8. Operator shall waive and cause its insurers to waive for the benefit of the Town any right of recovery or subrogation which the insurer may have or acquire against the Town or any of its affiliates, or its or their employees, officers or directors for payments made or to be made under such policies.

9. Operator is required to add the Town and its elected and appointed officials and employees as additional insureds under general liability (including operations and completed operations), auto liability, Environmental/Pollution Liability and umbrella liability policies.

10. Operator shall ensure that each of the policies are endorsed to provide that they are primary without right of contribution from the Town or any insurance or self-insurance otherwise maintained by the Town, and not in excess of any insurance issued to the Town.

11. Operator shall ensure that each of the policies above (excluding workers' compensation and control of well/operator’s extra expense) are endorsed to state that the inclusion of more than one insured under such insurance policy shall not operate to impair the rights of one insured against another insured and that the coverage afforded by each insurance policy shall apply as though a separate policy had been issued to each insured.

12. All policies shall be endorsed such that they cannot be canceled or non-renewed without at least thirty days' advanced written notice to the Operator and the Town, evidenced by return receipt via United States mail, except when such policy is being canceled for nonpayment of premium, in which case ten days advance written notice is required. Language relating to cancellation requirements stating that the insurer's notice obligations are limited to "endeavor to" are not acceptable.

13. Operator shall, prior to permit issuance, and at least annually, deliver certificates of insurance reasonably acceptable to the Town confirming all required minimum insurance is in full force and effect.

14. Deductibles or retentions shall be the responsibility of Operator. Deductibles or retentions must be listed on the certificate of insurance required herein and are subject to the reasonable approval of the Town.

15. Operator shall require any of its subcontractors to carry the types of coverage and in the minimum amounts in accordance with the requirements this section. Operator agrees that it shall be responsible for any damage or loss suffered by the Town as a result of non-compliance by Operator or any subcontractor with these requirements.

16. If Operator's coverage lapses, is cancelled or otherwise not in force, the Town reserves the right to obtain insurance required herein and charge all costs and associated expenses to Operator, which shall become due and payable immediately.

C. Financial Assurance. A surety bond or other financial assurance deemed acceptable by the Town is required from the Operator to ensure performance of all obligations of the Operator in compliance with all rules, regulations, and laws imposed by the Town, including the obligation to properly plug, abandon and reclaim all wells, well sites and pipelines. Upon the commencement of any work on the oil and gas operation, the Operator shall procure and deposit with the Town a surety bond issued by an insurer authorized by the state of Colorado and carrying a financial strength rating from A. M. Best of no less than A- VII. The amount of financial assurance required is $100,000 for an oil and gas location, but if the location includes more than one well, the assurance must include $100,000 for each additional well. The applicable bond amount shall be released when all oil and gas wells subject to the Application approval have been plugged and abandoned, and the site reclaimed, as determined by the Town.

30-15-108: Inspections, enforcement, and fines

A. Operator Inspections. Operators are required to inspect their oil and gas facilities to ensure compliance with all federal, state, county, and Town rules.

1. *Applicability*. This section applies to Operators of pre-existing oil and gas operations on property previously annexed by the Town or annexed subsequent to the effective date of this section, and to Operators who have obtained a Use by Special Review permit after the effective date of this section.

2. *Operator Inspections*. All Operators must inspect all oil and gas facilities, including shut-in and temporarily abandoned facilities, and all oil and gas operations as follows:

a. Conduct soil sampling for contamination within the boundaries of an oil and gas location and along pipeline routes annually;

b. Use equipment-assisted inspection for emissions or releases, including use of best available technology (such as infrared cameras), at least every 90 days; and

c. Conduct visual inspections for liquid leaks within the boundaries of an oil and gas location and along pipeline routes at least every 90 days.

3. *Inspection Reporting*. Operators will report the date, methodology, subject, and results of all inspections to the Town no later than the last day of each month.

4. *Spills, Leaks and Releases*. Spills, leaks, and releases of any substance other than fresh water, including spills of produced water, oil, condensate, natural gas liquids, all spills outside of secondary containment, gas leaks, other fugitive emissions, and exploration and production

waste, shall be reported to the Town immediately upon discovery and no later than 8 hours thereafter. When leaks, spills, or releases are discovered by Town, Operator, or any other type of inspection, the enforcement mechanisms and penalty provisions in this section apply.

5. *Reporting*. For spills or other releases meeting the Colorado reporting requirements pursuant to Section 25-8-601(2), C.R.S. or ECMC Rule 912, or any successor statute or rule, Operators will adhere to all state reporting requirements.

6. *Clean-up*. Any leak, release, or spill shall be stopped and cleaned up according to applicable Town, county, state and federal laws, including Colorado Water Quality Control Commission regulations, the Colorado Oil and Gas Act, the federal Clean Air Act, and the federal Clean Water Act. Operators will notify the Town immediately upon completion of clean-up activities.

7. *Root Cause Analysis*. A root cause analysis of any spill, leak, or release of any substance other than fresh water that resulted in bodily injury or fatality, serious environmental harm, was a Grade 1 gas leak as defined by the ECMC, or is otherwise requested by the Town shall be submitted to the Town within 30 days of the leak, spill, or release.

B. Town Inspections. To monitor compliance with permit conditions or if the Town has reasonable cause to believe that a violation of the provisions of this section has occurred, the Town may inspect oil and gas facilities and commence enforcement if necessary to ensure compliance with the provisions of this section.

1. *Right to Enter*. Any oil and gas facility may be inspected by the Town, or the Town's designee, at any time to ensure compliance with the requirements of Town permits or the provisions of this section. Unless urgent circumstances exist, the Town will use best efforts to ensure that 1 hour of prior notice is given to the Operator's contact person at the telephone number on file. Town inspections will be coordinated with the Operator to ensure Operator presence onsite to the extent possible and to ensure the site visit is conducted in accordance with all applicable operator safety requirements. Inspections in response to odor complaints will occur as soon as feasible upon receipt of the complaint.

2. *Records*. Operators will disclose any and all information regarding operations or activities of the oil and gas operation to the Town. This includes, but is not necessarily limited to, daily drilling logs, air quality monitoring data, noise monitoring data or logs, water analysis reports, environmental assessments, daily activity logs or reports, and records or reports required by the CDPHE, the ECMC, the Colorado Public Utilities Commission, the Occupational Safety and Health Administration, and the Pipeline and Hazardous Materials Safety Administration. Operators shall submit all reports required by this rule to the Town electronically.

3. *Inspection fees*. The Town may require the Operator to pay reasonable inspection fees for inspections conducted by the Town or a third party approved by the Town as detailed in a Development Agreement.

C. Violations. Violations of any condition of approval or any provisions of this section may be subject fines, penalties, and other corrective actions.

1. *Process initiation*. If the Town Administrator has reasonable cause to believe that a violation has occurred, the Town Administrator will issue a notice of violation to the Operator. Each violation of an individual condition or Code provision will be considered a separate infraction. Each day a violation occurred will be considered a separate infraction. The Notice of Violation shall include:

    a. Provisions of this Code or conditions imposed on a permit that were violated;

    b. A short and plain statement of the facts alleged to constitute each violation;

c. A statement of the fines the Operator will be subject to as specified in this section; and

d. A demand that the violation that the violation be remedied and fines paid.

2. *Operator Response*. The Operator will have the time specified by the Town Administrator in the notice to respond to the notice of violation, unless an extension is requested in writing and granted by the Town Administrator. The response must address each violation, including the cause of the violation and any corrective actions taken, and identify any other relevant facts.

3. *Assessment of Penalty*. Based on the Operator's response, if any is provided, and any other competent evidence, the Town Administrator will determine if a violation has occurred and, if so, the appropriate penalty to assess. Any fine imposed after consideration of the response will be measured with respect to the first date of discovery of the violation or the date the violation first occurred and continues until the violation has been remedied to the satisfaction of the Town Administrator.

4. *Penalty Calculation*. The Town Administrator may assess a civil penalty up to $15,000 per violation per day, depending on the nature and severity of the violation, statutory authority, and application of the additional factors listed below.

a. To evaluate the severity of the violation, the Town Administrator will consider the following:

i. The degree of threatened or actual impact to public health, safety, welfare, the environment or wildlife;

ii. The existence, size, and proximity of potentially impacted livestock, wildlife, fish, soil, crops, water, and all other environmental resources;

iii. The degree of threatened or actual damage to agricultural lands, public lands, private property, freshwater sources, public drinking water, natural resources, environmental features, or wildlife;

iv. The size of any leak, release, or spill;

v. Whether the violation resulted in a significant waste of oil and gas resources;

vi. The toxicity of a leak, release, or spill;

vii. Whether the violation led to death or injury of persons or wildlife; and

vii. The duration of the violation.

b. In addition to considering the severity of the violation, the Town Administrator will consider the following:

i. Whether the same or similar violations have occurred at the location;

ii. Whether other violations have occurred at the location in the previous 24 months;

iii. The Operator's history of violations of any applicable rules, of similar or different types, at the location or others;

iv. The timeliness and adequacy of the Operator's corrective actions;

v. The degree the violation was outside of the Operator's reasonable control and responsibility;

vi. Whether the Operator acted with gross negligence, or knowing and willful misconduct;

vii. Whether the Operator self-reported; and

viii. Whether the Operator was cooperative with all agencies and jurisdictions involved in working to mitigate the impacts of the violation.

c. The Town may impose a penalty for violations of its Code and / or Conditions of Approval. The Town may impose its own penalty if the ECMC finds a violation of a similar requirement in its rules and imposes its own penalty; however, the Town Administrator shall consider the amount of the penalty imposed by the ECMC for its similar violation when calculating the Town's penalty.

5. *Suit to Enjoin ECMC Rule Violation*. If the Town discovers a violation or threatened violation of Title 34, Article 60 of the Colorado Revised Statutes or any rule, regulation, or order made under that Article, the Town will notify the ECMC in writing. If the ECMC fails to file a Notice of Alleged Violation against the Operator in a timely manner, the Town Attorney may file an action on behalf of the Town seeking injunctive relief.

6. *Other Penalties*. In addition to or in lieu of civil fines, the Town may exercise remedies for Operator violations including the following:

a. Increased Operator or Town inspection frequency at the Operator's expense;

b. Mandatory equipment upgrades;

c. A requirement to conduct an audit of the systems or equipment involved in the violation(s); and / or

d. A requirement for increased reporting to the Town.

7. **Written Order Suspending the Approval.** As a result of either (i) emergency conditions, or (ii) 3 or more fines imposed for violations within 12 months, the Town may issue a written order to the Operator. Upon receipt, the Operator shall cease all activities and operations immediately until the violation is remedied or appeal the order suspending approval to the Board of Trustees within 14 days.

8. **Other Enforcement Remedies.** In addition to the foregoing enforcement measures, the Town has the right to any and all other enforcement measures and remedies provided by law, including but not limited to injunctive or other relief through the courts to enforce any conditions of the Development Agreement or to stop or abate any oil and gas operations occurring or about to occur without the requisite special use, required permits, or other Town approvals. Nothing in this section shall limit the remedies available to the Town for a violation of this section.

30-15-109: Seismic Operations

A. An Operator seeking to conduct any seismic operations within the Town must obtain a Seismic Operations Permit. As part of the Town's Seismic Operations Permit, the Operator shall submit an application fee and development review deposit as specified in the Town's Fee Schedule. Additionally, the Operator shall submit the following information to the Town as part of the Seismic Operations Permit:

1. A timeline for the seismic operation;
2. A map of any existing mines underlying the project area, and within 1-kilometer (3,280 feet) of the seismic operation boundary;
3. A map of any water sources within 1-kilometer (3,280 feet) of the seismic operation boundary;
4. A map of any occupied buildings and / or dwelling units within 1-kilometer (3,280 feet) feet of the seismic operation;
5. A list of equipment to be used during the seismic operation;
6. Plans to monitor and control the seismic operation to prevent any damage to any infrastructure;
7. A public notification plan for buildings along any vibriosis truck routes;
8. An assessment by a certified engineer demonstrating the roads to be used in the project are able to endure the vibrations generated by the seismic operation;
9. Proof of adequate insurance for any potential damage caused by the seismic operation;
10. Copies of written permission from any landowner whose land will be utilized for the seismic operation;
11. The company or companies responsible for performing the seismic operation and contact information of those companies;
12. A traffic control plan; and
13. Any other information the Town deems reasonable and necessary to protect public health, safety, welfare, the environment and wildlife.

B. The Town will approve, deny, or place conditions of approval on Seismic Operations Permit in accordance with the criteria outlined in the purpose, authorities and application to existing facilities section ~~30-11-101.B.~~.

C. The Operator shall notify building occupants and property owners as outlined in its Seismic Operations Permit within thirty (30) days after approval of the Permit or within fourteen (14) days of conducting the operation, whichever is closer to the Seismic Operation.

30-15-110: Judicial Review

A. Decisions by the Board of Trustees shall be subject to judicial review as applicable pursuant to C.R.C.P. 106(a)(4).

SECTION 16 – WIRELESS COMMUNICATION FACILITIES (WCF)

30-16-101 Purpose and Goals. The purpose of these provisions is to establish requirements for the siting of Wireless Communications Facilities. The goals of these provisions are to:

A. Provide for the managed development and installation, maintenance, modification, and removal of wireless communications infrastructure in the Town with the fewest number of WCFs to complete a network without unreasonably discriminating against wireless communications providers of functionally equivalent services including all of those who install, maintain, operate, and remove WCFs.

B. Promote and protect the public health, safety, and welfare by reducing the visibility of WCFs to the fullest extent possible through techniques including but not limited to concealment design techniques and undergrounding of the equipment associated with WCFs.

C. Encourage the deployment of smaller, less intrusive WCFs where appropriate to supplement existing larger WCFs.

D. Encourage the use of wall mounted panel antennas.

E. Encourage roof mounted antennas when wall mounted antennas will not provide adequate service or are not otherwise feasible.

F. Encourage the location of Towers in non-residential areas, in a manner that minimizes the total number of Towers needed throughout the community.

G. Encourage strongly the collocation of WCFs on new and existing Sites.

H. Encourage owners and users of antennas and Towers to locate them, to the extent possible, in areas where the adverse impact on the community is minimized.

I. Enhance the ability of WCF providers to provide such services to the community quickly, effectively, and efficiently.

J. Effectively manage WCFs in the Right-of-Way.

30-16-102 Definitions. The following definitions apply to this Section.

Alternative Tower Structure: Any man-made clock towers, bell steeples, light poles, water towers, farm silos, or similar alternative design mounting structures approved by the Town, that conceal where technically feasible the presence of WCFs to make them architecturally compatible with the surrounding area pursuant to this Section. A stand- alone pole in the Right-of-Way that accommodates Small Cell Facilities is considered an Alternative Tower Structure provided it meets the concealment standards of this Section. Alternative Tower Structures are not considered Towers, for the purposes of this Section.

Antenna: Any device used to transmit and/or receive radio or electromagnetic waves such as, but not limited to panel antennas, reflecting discs, microwave dishes, whip antennas, directional and non-directional antennas consisting of one or more elements, multiple antenna configurations, or other similar devised and configurations.

Antennas, panel: An array of antennas, rectangular in shape, used to transmit and receive telecommunication signals.

Antenna, whip: A single antenna that is cylindrical in shape and omni-directional.

Base Station: A structure or equipment at a fixed location that enables FCC-licensed or authorized wireless communications between user equipment and a communications network. The definition of Base Station does not include or encompass a Tower as defined herein or any equipment associated with a Tower. Base Station does include, without limitation:

A. Equipment associated with wireless communications services such as private broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul that, at the time the relevantapplication is filed with the Town under this Section, has been reviewed and approved under the applicable zoning or siting process, or under another State or local regulatory review process, even if the structure was not built for

the sole or primary purpose of providing such support.

B. Radio transceivers, antennas, coaxial or fiber-optic cable, regular and backup power supplied, and comparable equipment, regardless of technological configuration (including Distributed Antenna Systems ("DAS") and small cell networks) that, at the time the relevant application is filed with the Town under this Section, has been reviewed and approved under the applicable zoning or siting process, or under another State or local regulatory review process, even if the structure was not built for the sole or primary purpose of providing such support.

The definition of Base Station does not include any structure that, at the time the relevant application is filed with the Town under this Section, does not support or house equipment described in paragraphs A and B above.

Camouflage or Camouflage Design Techniques: Measures used in the design and siting of Wireless Communication Facilities with the intent to minimize or eliminate the visual impact of such facilities to surrounding uses. A WCF Site utilizes Camouflage Design Techniques when it (i) is integrated as an architectural feature of an existing structure, or (ii) is integrated in an outdoor fixture such as a flagpole, while still appearing to some extent as a WCF. This definition does not include the use of Concealment design elements so that a facility looks like something other than a wireless Tower or Base Station.

Collocation:

A. For the purposes of Eligible Facilities Requests, means the mounting or installation of transmission equipment on an Eligible Support Structure for the purpose of transmitting and /or receiving radio frequency signals for communications purposes.
B. For the purposes of facilities subject to shot clocks governed by 47 U.S.C. Sec. 332, means attachment of facilities to existing structures, regardless of whether the structure or location has previously been zoned for wireless facilities.

Concealment: Utilization of elements of stealth design in a facility so that the facility looks like something other than a wireless Tower or Base Station. Language such as “stealth,” “camouflage,” or similar in any permit or other document required by the Town Code is included in this definition to the extent such permit or other document reflects an intent at the time of approval to condition the site’s approval on a design that looks like something else. Concealment can further include a design which mimics and is consistent with the nearby natural, or architectural features (such as an artificial tree), or is incorporated into (including without limitation, being attached to the exterior of such facility and painted to match it) or replaces existing permitted facilities (including without limitation, stop signs or other traffic signs or freestanding light standards) so that the presence of the WCF is not apparent. This definition does not include conditions that merely minimize visual impact but do not incorporate Concealment design elements so that the facility looks like something other than a wireless Tower or Base Station.

Eligible Facilities Request: Any request for modification of an Existing Tower or Base Station that does not Substantially Change the physical dimensions of such Tower or Base Station involving:

A. Collocation of new Transmission Equipment.
B. Removal of Transmission Equipment.
C. Replacement of Transmission Equipment.

A request for modification of an Existing Tower or Base Station that does not comply with the generally applicable building, structural, electrical, and safety codes or with other laws codifying objective standards reasonably related to health and safety, or does not comply with any relevant federal requirements, is not an Eligible Facilities Request.

Eligible Support Structure: Any Tower or Base Station as defined in this Section, provided that it is Existing at the time the relevant application is filed with the Town under this Section.

Equipment Cabinets: A cabinet or building used to house equipment used by wireless communications providers at a Wireless Communications Facility. This definition does not include relatively small electronic components, such as remote radio units, radio transceivers, amplifiers, or other devices mounted behind antennas, if they are not used as physical containers for smaller, distinct devices.

Existing: For purposes of this Section, a constructed Tower or Base Station that was reviewed, approved, and lawfully constructed in accordance with all requirements of applicable law as of the time of an Eligible Facilities Request, provided that a Tower that exists as a legal, non-conforming use and was lawfully constructed is existing for purposes of this definition.

OTARD Antenna:

A. An antenna that is designed to receive direct broadcast satellite service, including direct-to-home satellite services, that is one meter or less in diameter; or
B. An antenna that is designed to receive video programming services via multipoint distribution services, including multichannel multipoint distribution services, instruction television fixed services, and local multipoint distribution services, and that is one meter or less in diameter or diagonal measurement; or
C. An antenna that is designed to receive television broadcast signals.

OTARD antenna structure: Any pole, Tower, or other structure designed and intended to support an OTARD Antenna.

Related Accessory Equipment: The Transmission Equipment customarily used with, and incidental to Wireless Communication Facilities antennas, including by way of example, coaxial or fiber-optic cable, regular and backup power supply and remote radio units.

Right-of-Way: In the context of this Section, any public street or road that is dedicated to public use for vehicular traffic except for those rights-of-way owned by the Colorado Department of Transportation within the Town limits.

Site: In the context of this Section, for Towers and Eligible Support Structures, a Site means the current boundaries of the leased or owned property surrounding the Tower or Eligible Support Structure and any access or utility easements currently related to the Site. For Alternative Tower Structures, Base Stations and Small Cell Facilities in the Right-of-Way, a Site is further restricted to that area comprising the base of the structure and to other Related Accessory Equipment already installed on the ground.

Small Cell Facility: A WCF where each antenna is located inside an enclosure of no more than three (3) cubic feet in volume or, in the case of an antenna that has exposed elements, the antenna and all of its exposed elements could fit within an imaginary enclosure of no more than three (3) cubic feet; and primary equipment enclosures are no larger than seventeen (17) cubic feet in volume. The following associated equipment may be located outside of the primary equipment enclosure and, if so located, is not included in the calculation of equipment volume: electric meter, concealment, telecommunications demarcation box, ground-based enclosure, back-up power systems, grounding equipment, power transfer switch and cut-off switch.

Substantial Change: A modification substantially changes the physical dimensions of an Eligible Support Structure if after the modification, the structure meets any of the following criteria:

A. For Towers, it increases the height of the Tower by more than ten percent or by the height of one additional antenna array with separation from the nearest existing antenna not to exceed twenty (20) feet, whichever is greater, as measured from the top of an existing antenna to the bottom of a proposed new antenna; for other Eligible Support Structures, it increases the height of the structure by more than ten percent or more than ten (10) feet, whichever is greater, as measured from the top of an existing antenna to the bottom of a proposed new

antenna;

B. For Towers, it involves adding an appurtenance to the body of the Tower that would protrude from the edge of the Tower more than twenty (20) feet, or more than the width of the Tower structure at the level of the appurtenance, whichever is greater; for Eligible Support Structures, it involves adding an appurtenance to the body of the structure that would protrude from the edge of the structure by more than six (6) feet;
C. For any Eligible Support Structure, it involves installation of more than the standard number of new equipment cabinets for the technology involved, as determined on a case-by-case basis based on the location of the Eligible Support Structure but not to exceed four cabinets per application; or for Base Stations, it involves installation of any new equipment cabinets on the ground if there are no pre-existing ground cabinets associated with the structure, or else involves installation of ground cabinets that are more than ten percent larger in height or overall volume than any other ground cabinets associated with the structure;
D. It entails any excavation or deployment outside of the current site, except that, for Towers other than Towers in the Public Rights-of-Way, it entails any excavation or deployment of Transmission Equipment outside of the current site by more than 30 feet in any direction. The site boundary from which the 30 feet is measured excludes any access or utility easements currently related to the site.
E. For any Eligible Support Structure, it would defeat the Concealment elements of the Eligible Support Structure by causing a reasonable person to view the structure's intended stealth design as no longer effectiveFor any Eligible Support Structure, it does not comply with record evidence of conditions associated with the siting approval of the construction or modification of the Eligible Support Structure or Base Station equipment, unless the non-compliance is due to an increase in height, increase in width, addition of cabinets, or new excavation that would not exceed the thresholds identified in paragraphs a, b, and c of this definition.

For purposes of determining whether a Substantial Change exists, changes in height are measured from the original support structure in cases where deployments are or will be separated horizontally, such as on building rooftops; in other circumstances, changes in height are measured from the dimensions of the Tower or Base Station, inclusive of approved appurtenances and any modifications that were approved prior to February 22, 2012.

Tower: Any structure that is designed and built for the sole or primary purpose of supporting any FCC-licensed or authorized antennas and their associated facilities, including structures that are constructed for wireless communications services including, but not limited to, private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul, and the associated Site. The term includes radio and television transmission towers, self- supporting lattice towers, guy towers, monopoles, microwave towers, common carrier towers, cellular telephone towers and the like. Alternative Tower Structures and Small Cell Facilities in the Rights-of-Way are not Towers.

Transmission Equipment: Equipment that facilitates transmission for any FCC licensed or authorized wireless communication service, including, but not limited to, radio transceivers, antennas, coaxial or fiber-optic cable, and regular and backup power supply. The term includes equipment associated with wireless communications services including, but not limited to, private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul.

Wireless Communications Facility or WCF: A facility used to provide personal wireless services as defined at 47 U.S.C. Section 332 (c)(7)(C); or wireless information services provided to the public or to such classes of users as to be effectively available directly to the public via licensed or unlicensed frequencies; or wireless utility monitoring and control services. A WCF does not include a facility entirely enclosed within a permitted building where the installation does not require a modification of the exterior of the building; nor does it include a device attached to a building, used for serving that building only and that is otherwise permitted under other provisions of the Code. A WCF includes an antenna or antennas, including without limitation, directions, omni-directions and parabolic antennas, Base Stations, support

equipment, Small Cell Facilities, Alternative Tower Structures, and Towers. It does not include the support structure to which the WCF or its components are attached if the use of such structures for WCFs is not the primary use. The term does not include mobile transmitting devices used by wireless service subscribers, such as vehicle or handheld radios/telephones and their associated transmitting antennas, nor does it include other facilities specifically excluded from the coverage of this Section.

30-16-103Applicability; Waiver; Exemptions. The requirements set forth in this Section shall apply to all WCF applications for Base Stations, Alternative Tower Structures, Alternative Tower Structures located within Right-of-Way, and Towers as defined elsewhere herein. The Town, through an appropriately designated and authorized person, shall have the authority to waive any requirement or standard set forth in this Section as it may be proposed to be applied to a specific WCF, if the Town makes a determination that the specific requirement or standard as proposed to be applied is preempted by federal or state law. Prior to applying the waiver to any pending application, the Town shall, in consultation with the Town Administrator and Town Attorney, make a written preemption determination which written determination shall identify the specific requirement or standard that is being waived and cite to the specific federal or state law provision that preempts the specific Town requirement or standard set forth in this Section. The requirements set forth in this Section shall not apply to:

A. *Amateur Radio Antennas.* Amateur radio antennas that are owned and operated by a federally licensed amateur radio station operator or are used exclusively for receive-only antennas, provided that the requirement that the height be no more than the distance from the base of the antenna to the nearest property line is met. The Town or their designee has the authority to approve modifications to the height restriction, if in the reasonable discretion of the Town, modifications are necessary to comply with federal law.

B. *Pre-existing WCFs.* Any WCF for which a permit has been properly issued prior to the effective date of this Section, shall not be required to meet the requirements of this Section, other than the requirements of subparagraphs Section D.1, Section D.5 and Section D.6 below. Changes and additions to pre-existing WCFs (including trading out of antennas for an equal number of antennas) shall meet applicable requirements of this Section.

C. *Miscellaneous Antennas.* Antennas used for reception of television, multi-channel video programming and radio such as OTARD antennas, television broadcast band antennas, and broadcast radio antennas, provided that the requirement that the height be no more than the distance from the base to the nearest property line are met. The Town Administrator or their designee has the authority to approve modifications to the height restriction related to OTARD antennas and OTARD antenna structures, if in the reasonable discretion of the Town, modifications are necessary to comply with federal law.

30-16-104Operational Standards. The following operational standards shall apply.

A. Federal Requirements. All WCFs shall meet the current standards and regulations of the FAA, the FCC and any other agency of the federal government with the authority to regulate WCFs. If such standards and regulations are changed, then the owners of the WCF governed by this Section shall bring such facility into compliance with such revised standards and regulations within the time period mandated by the controlling federal agency. Failure to meet such revised standards and regulations shall constitute grounds for the removal of the WCF at the owner's expense.

B. *Radio Frequency Standards.* All WCFs shall comply with federal standards for radio frequency emissions. The Town may require that the owner or operator of the WCF provide information demonstrating compliance. If such information is not sufficient, in the reasonable discretion of the Town, to demonstrate compliance, the Town may require the owner or operator of the WCF to submit a project implementation report which provides cumulative field measurements of radio frequency emissions of all Antennas installed at the subject Site, and which compares the results with established federal standards. If, upon review, the Town finds that the facility does not meet federal standards, the Town may require corrective action within a reasonable period of time, and if not corrected, may require removal of the WCF. Any reasonable costs incurred by

the Town, including reasonable consulting costs to verify compliance with these requirements, shall be paid by the applicant.

C. *Signal Interference.* All WCFs shall be designed and sited so as not to cause interference with the normal operation of radio, television, telephone and other communication services utilized by adjacent residential and non-residential properties; nor shall any such facilities interfere with any public safety communications. The Applicant shall provide a written statement ("Signal Interference Letter") from a qualified radio frequency engineer, certifying that a technical evaluation of existing and proposed facilities indicates no potential interference problems.

D. *Legal Access.* In all applications for WCFs outside of the Right-of-Way, an Applicant shall demonstrate that it owns or has lease rights to the Site.

E. *Operation and Maintenance.* To ensure the structural integrity of WCFs, the owner of a WCF shall ensure that it is maintained in compliance with standards contained in applicable local building and safety codes. If upon inspection, the Town determines that a WCF fails to comply with such codes and constitutes a danger to persons or property, then, upon written notice being provided to the owner of the WCF, the owner shall have thirty (30) days from the date of notice to bring such WCF into compliance. Upon good cause shown by the owner, the Town may extend such compliance period not to exceed ninety (90) days from the date of said notice. If the owner fails to bring such WCF into compliance within said time period, the Town may remove such WCF at the owner's expense. No hazardous materials shall be permitted in association with WCFs, except those necessary for the operations of the WCF and only in accordance with all applicable laws governing such materials.

F. *Abandonment and Removal.* If a WCF has not been in use for a period of three months, the owner of the WCF shall notify the Town of the non-use and shall indicate whether re-use is expected within the ensuing three months. Any WCF that is not operated for a continuous period of six months shall be considered abandoned. The Town, in its sole discretion, may require an abandoned WCF to be removed. The owner of such WCF shall remove the same within thirty (30) days of receipt of written notice from the Town. If such WCF is not removed within said thirty (30) days, the Town may remove it at the owner's expense and any approved permits for the WCF shall be deemed to have expired.

30-16-105Design and Siting Standards. The requirements set forth in this Section shall apply to the location and design of all WCFs governed by this Section as specified below; provided, however, that the Town may waive any one or more of these requirements it if determines that the goals of this Section are better served thereby. WCFs shall be designed and located to minimize the impact on surrounding properties and residential neighborhoods and to maintain the character and appearance of the Town, consistent with other provisions of this Code. In addition to the provisions of this Code, applicants shall comply with the Town's Wireless Communications Design Standards, which may be adopted and amended from time to time by the Town Administrator.

A. *Camouflage/Concealment.* All WCFs and any Related Accessory Equipment shall, to the maximum extent possible, use Concealment Design Techniques, and where not possible utilize Camouflage Design Techniques. Camouflage Design Techniques include, but are not limited to using materials, colors, textures, screening, undergrounding, landscaping, or other design options that will blend the WCF to the surrounding natural setting and built environment.

B. Where WCFs are located in areas of high public visibility, they shall, where physically possible, be designed to be concealed, and where not possible to be concealed, to minimize the WCF profile through placement of equipment fully or partially underground, or by way of example and not limitation, behind landscape berms.

C. Concealment design may include the use of Alternative Tower Structures should the Town determine that such design meets the intent of this Code and the community is better served thereby.

D. All WCFs, such as antennas, vaults, equipment rooms, equipment enclosures, and Towers shall be constructed of non-reflective materials (visible exterior surfaces only).

E. Siting.

1. No portion of any WCF may extend beyond the property line.
2. WCFs shall be required to be designed and constructed to permit the facility to accommodate WCFs from at least two wireless communications providers on the same WCF. No WCF owner or operator shall unfairly exclude a competitor from using the same facility or Site.
3. WCFs shall be sited in a location that does not reduce the parking for the other principal uses on the parcel below Code standards.
4. WCFs shall not encroach into any sight triangles.
5. WCFs shall not encroach into recorded/documented easements without permission from the underlying property owner and the easement holder.

F. Lighting. WCFs shall not be artificially lighted, unless required by the FAA or other applicable governmental authority, or the WCF is mounted on a light pole or other similar structure primarily used for lighting purposes. If lighting is required, the Town may review the available lighting alternatives and approve the design that would cause the least disturbance to the surrounding views. Lighting shall comply with the Town's Dark Sky Standards, and be shielded or directed to the greatest extent possible so as to minimize the amount of glare and light falling onto nearby properties, particularly residences.

G. Landscape and Fencing Requirements.

1. WCFs shall be sited in a manner that does not reduce the landscaped areas for the other principal uses on the lot or parcel, below any applicable Code standards including without limitation, Planned Unit Development standards.
2. Except for WCFs in the Right-of-Way, the Site of the WCF shall be landscaped with a buffer of plant materials that effectively screen the view of the WCF from adjacent residential property. The standard buffer shall consist of the front, side, and rear landscaped setback on the perimeter of the Site.
3. In locations where the visual impact of the WCF would be minimal, the landscaping requirement may be reduced or waived in whole or in part by the Town.
4. Existing mature tree growth and natural landforms on the Site shall be preserved to the maximum extent possible. In some cases, such as WCFs sited on large, wooded lots, natural growth around the Site perimeter may be sufficient to buffer.
5. No trees larger than four (4) inches in diameter measured at 4½ feet high on the tree from grade may be removed, unless authorized by the Town. To obtain such authorization the Applicant shall show that tree removal is necessary, the Applicant's plan minimizes the number of trees to be removed and that any trees removed are replaced at a ratio of 2 to 1 with tree species to be approved by the Town.
   i. The applicant shall provide a maintenance plan to ensure the replacement trees shall be irrigated and maintained to the Town for approval prior to the removal of any tree.

H. *Specific Design Requirements.* Additional design requirements shall be applicable to the types of WCFs as specified below:

1. *Base Stations –*

- *a*. Base Stations shall be architecturally compatible with respect to attachments, and colored to match the building or structure to which they are attached;
- b. The maximum protrusion of such facilities from the building or

structure face to which they are attached shall be two (2) feet;

c. Wall mounted WCFs shall not extend above the roofline unless mounted to a penthouse; and
d. Roof mounted WCFs shall be approved only where an Applicant demonstrates a wall mounted WCF is inadequate to provide service and shall be evaluated for approval based upon the following criteria:
    i. Roof mounted whip antennas shall extend no more than twelve (12) feet above the parapet of any flat roof or ridge of a sloped roof or penthouse to which they are attached;
    ii. Roof mounted panel antennas shall extend no more than seven (7) feet above the parapet of a flat roof or ridge of a sloped roof to which they are mounted; and
    iii. Other roof mounted Related Accessory Equipment shall extend no more than seven (7) feet above any parapet of a flat roof upon which they may be placed, and shall not be permitted on a sloped roof.

2. *B.Alternative Tower Structures (ATS) and Small Cell Facilities not located in the Right-of-Way –*

    a. ATS shall be designed and constructed to look like a building, facility, or structure typically found in the area, in order that the WCF is Concealed.
    b. Height or size of the proposed ATS or Small Cell Facility should be minimized as much as possible and shall be subject to the maximum height restrictions of the zoning district in which they are located, as set forth in The Zoning Section, Chapter 30 of the Town's Municipal Code, as amended.
    c. ATS shall be sited in a manner that is least obtrusive to residential structures and residential district boundaries;
    d. ATS should take into consideration the uses on adjacent and nearby properties and the compatibility of the facility to these uses;
    e. ATS and Small Cell Facilities shall be compatible with the surrounding topography, tree coverage, and foliage;
    f. ATS and Small Cell Facilities shall be designed utilizing design characteristics that have the effect of concealing where technically feasible and generally reducing or eliminating visual obtrusiveness; and
    g. Visual impacts of the proposed ingress and egress shall be minimized.

3.Alternative Tower Structures and Small Cell Facilities located in the Right-of- Way –

    a. No ATS pole shall be higher than thirty-five (35) feet including any cannister or antennas located on top of a pole;
    b. No pole or structure shall be more than ten (10) feet higher (as measured from the ground to the top of the pole or structure) than any existing utility or traffic signal within five hundred (500) feet of the pole or structure;
    c. Any new pole for ATS or Small Cell Facilities shall be separated from any other existing WCF facility by a distance of at least six hundred (600) feet, unless the new pole replaces an existing traffic signal, street light or utility pole;

d. With respect to pole-mounted components, Small Cell Facilities shall be located on an existing utility pole serving another utility; or be located on a new utility pole where other utility distribution lines are aerial, if there are no reasonable alternatives;

e. ATS must be concealed consistent with other existing natural or manmade features in the Right-of-Way near the location where the ATS will be located;

f. To the extent reasonably feasible, be consistent with the size and shape of the pole-mounted equipment installed by communications companies on utility poles near the ATS;

g. When placed near a residential property, any ATS or Small Cell Facilities must be placed in front of the common side yard property line between adjoining residential properties. In the case of a corner lot, the facility must be placed in front of the common side yard property line adjoining residential properties, or on the corner formed by two intersecting streets;

h. Small Cell Facilities shall:

i. be designed such that antenna installations on traffic signals are placed in a manner so that the size, appearance, and function of the signal will not be considerably altered; and

ii. be designed such that all antennas, mast arms, equipment, and other facilities are sized to minimize visual clutter, and where possible, concealed within the structure; and

iii. be consistent with the size and shape of the pole-mounted equipment installed by communications companies on utility poles near the ATS; and

iv. require that any ground mounted equipment be installed in an underground or partially underground equipment vault (projecting not more than thirty-six (36) inches above grade) or the maximum height permissible through the Town's Engineering specifications and standards for ground mounted utility equipment, or co-located within a traffic cabinet of a design approved by the Town, unless a use by special review is obtained subject to the requirements of the Town Code; and

v. not alter vehicular circulation or parking within the Right-of- Way or impede vehicular, bicycle, or pedestrian access or visibility along the Right-of-Way; and

vi. comply with the federal Americans With Disabilities Act and all applicable local, state, and federal law and regulations; and

vii. not be located or maintained in a manner that causes unreasonable interference. Unreasonable interference means any use of the Right-of-Way that disrupts or interferes with its use by the Town, the general public, or other person authorized to use or be present upon the Right-of-Way, when there exists an alternative that would result in less disruption or interference. Unreasonable interference includes any use of the Right-of-Way that disrupts vehicular or pedestrian traffic, any interference with public utilities, and any other activity that will present a hazard to public health, safety, or welfare.

4.Towers -

a. Towers shall either maintain a galvanized steel finish, or, subject to any applicable FAA standards, be painted a neutral color so as to reduce visual obtrusiveness as determined by the Town;

b. Tower structures should use existing landforms, vegetation, and structures to aid in concealing the facility from view or blending in with the surrounding built and natural environment;

c. Monopole support structures shall taper from the base to the tip;

d. All Towers shall be enclosed by security fencing or wall at least six (6) feet in height and shall also be equipped with an appropriate anti-climbing device. No security fencing or any portion thereof shall consist of barbed wire or chain link material; and

e. Towers shall be subject to the maximum height restrictions of the zoning district in which they are located, subject to a maximum height limit of sixty (60) feet.

f. Towers should be sited in a manner that is least obtrusive to residential structures and residential district boundaries where feasible;

g. Towers should take into consideration the uses on adjacent and nearby properties and the compatibility of the Tower to these uses;

h. Towers should be designed utilizing design characteristics that have the effect of reducing or eliminating visual obtrusiveness;

i. Visual impacts of the proposed ingress and egress shall be minimized;

j. No new Towers shall be permitted unless the Applicant demonstrates to the reasonable satisfaction of the Town that no existing WCFs can accommodate the needs that the Applicant proposes to address with its Tower application. Evidence submitted to demonstrate that no existing WCFs can accommodate these needs may consist of the following:

i. No existing WCFs are of sufficient height and are located within the geographic area required to meet the Applicant's engineering requirements;

ii. Existing WCFs do not have sufficient structural strength to support Applicant's proposed WCF;

iii. The Applicant's proposed WCF would cause electromagnetic interference with the WCFs on the existing WCFs or the existing WCFs would cause interference with the Applicant's proposed WCF; or

iv. The Applicant demonstrates that there are other limiting factors that render existing WCFs unsuitable for collocation.

k. A Tower shall meet the greater of the following minimum setbacks from all property lines:

i. The setback for a principal building within the applicable zoning;

ii. Twenty-five (25) percent of the facility height, including WCFs and Transmission Equipment; or if the Tower height, including antennas, if the Tower is in or adjacent to a residential district or residential zoned property.

iii. For Sites within or adjacent to residential zones, Towers over forty
(40) feet in height shall not be located within one-quarter mile from any existing Tower that is over forty (40) feet in height, unless the Applicant has shown to the satisfaction of the Town

that there are no reasonably suitable alternative sites in the required geographic area which can meet the Applicant's needs.

l. No Towers shall be permitted in the Right-of-Way.

5.Related Accessory Equipment - Related Accessory Equipment for all WCFs shall meet the following requirements:

a. All buildings, shelters, cabinets, and other accessory components shall be grouped as closely as technically possible;

b. For WCFs outside of the Right-of-Way, the total footprint coverage area of the WCF's Related Accessory Equipment shall not exceed three hundred fifty (350) square feet;

c. No Related Accessory Equipment or accessory structure shall exceed twelve (12) feet in height; and

d. Related Accessory Equipment shall be located out of sight whenever possible by locating behind parapet walls or within equipment enclosures. Where such alternate locations are not available, the Related Accessory Equipment shall be concealed where technically feasible or otherwise camouflaged in a manner appropriate for the specific site.

6..Additional Design Standards. The Town may adopt administrative regulations addressing additional design standards for WCFs.

30-16-106 Review Procedures and Requirements. No new WCF shall be constructed and no collocation or modification to any existing WCF may occur except after a written request from an Applicant, reviewed and approved by the Town in accordance with this Section. In addition to following the procedures and regulations regarding land use approval, the applicant is responsible for coordinating any building permit activities with the Town. All WCFs, except Eligible Facilities Requests, shall be reviewed pursuant to the following procedures:

A. *Submittal Requirements.* Each Applicant for a WCF shall be required to submit:

1. A Signal Interference Letter
2. For new Towers and attachments to buildings, an inventory of Existing Sites
3. A stamped report by a state of Colorado registered professional engineer, or a verified statement from a qualified radio frequency engineer, demonstrating or assuring that the site will be in full compliance with federal radio-frequency emissions standards for wireless facilities; and
4. A stamped plan or report by a state of Colorado registered professional engineer indicating the structure is structurally sound to support the WCF.
5. For all sites except Small Cell Facilities located in the Rights-of-Way, a site plan map prepared in accordance with the Site Plan Map standards as detailed in Chapter 30 of the Berthoud Municipal Code. Applications for Small Cell Facilities located in the Rights-of-Way shall provide a map illustrating the location of the facility.
6. A project narrative detailing the criteria found in either the Site Plan or the Special Use Permit standards as detailed in Chapter 30 of the Berthoud Municipal Code, as applicable. The following additional information shall be described/provided:
    a. How the application meets the Design Standards found in this Chapter.
    b. Concealment and Camouflage provisions.
    c. If a freestanding facility is proposed, an analysis of alternatives to a freestanding facility within a one-mile radius of the facility.
    d. A list of all permits or approvals obtained or anticipated to be obtained from local, state or federal agencies other than the Federal Communications Commission (FCC).
    e. A statement as to whether the facility can be made available for collocation with other wireless users and if so, under what conditions.
    f. Any other information deemed necessary by the Town to determine compliance with

this Section.

B. *Additional Submittal Requirements.* In addition to the information required in Subsection 1 above, find the following requirements below:

1. In all zoning districts in which Towers are a use by right, applications shall be reviewed and considered for approval by the Town for conformance to this Section, any specific requirements of the zone district in which the proposed Tower is located and the Town's Wireless Communications Design Standards. In zoning districts where applications are permitted by use by special review, the application process shall follow the use by special review process and approved by the Town Board of Trustees. Such Towers shall be reviewed for conformance to this Section using the use by special review procedures set forth in Chapter 30 of the Municipal Code in conjunction with the applicable sections of this Section. Except in zone districts where Towers are a use by right, all applications for Towers shall demonstrate that other alternative design options such as Base Stations or Alternative Tower Structures are not viable options.

2. In all zoning districts and Planned Unit Developments, each application for a Base Station, Alternative Tower Structure, or Alternative Tower Structure proposed for location within Right-of-Way shall be reviewed and considered for approval by the Town for conformance to this Section and any specific requirements of the zone district in which the proposed Site is located. Except for WCFs in the Right-of-Way that meet all requirements of this Section or Eligible Facilities Requests, the Town may refer the application to Planning Commission for approval if the Town finds the proposed WCF to have a significant visual impact (e.g., proximity to historic or designated view corridors, or on significant community features) or otherwise is substantially incompatible with the structure on which the WCF will be installed, or it does not meet the clear intent of this Section.

C. *Criteria for approval.* The Community Development Director, or their designee, shall determine if the applicant has demonstrated that the proposed WCF meets the following standards, as applicable:

1. Application materials are complete.
2. The proposed land use will satisfy all applicable provisions of the zoning code, overlay districts, and subdivision regulations unless a variance is being concurrently requested.
3. The proposed land use will conform with or further the goals, policies and strategies set forth in the Town of Berthoud Comprehensive Plan.
4. The proposed land use will be adequately served with public utilities, services, and facilities (i.e., water, sewer, electric, schools, street system, fire protection, public transit, storm drainage, refuse collection, parks system, etc.) and not impose an undue burden above and beyond those of the permitted uses of the district.
5. The proposed land use will not substantially alter the basic character of the district in which it is in or impair the development or redevelopment potential of the district.
6. The proposed land use will result in efficient on- and off-site traffic circulation which will not have a significant adverse impact on the adjacent uses or result in hazardous conditions for pedestrians or vehicles in or adjacent to the site.
7. Potential negative impacts of the proposed land use on the rest of the neighborhood or of the neighborhood on the proposed land use have been mitigated through setbacks, architecture, screening, landscaping, site arrangement or other methods. The applicant shall, at a minimum, satisfactorily address impacts including: traffic; activity levels; light; noise; odor; building type, style and scale; hours of operation; dust; and erosion control.
8. The applicant has submitted evidence that all applicable local, state and federal permits have been or will be obtained.
9. The application addresses camouflage of the facilities from public view as appropriate.
10. The Signal Interference Letter is found to be satisfactory to the Town.

11. The radio frequency report is found to be satisfactory to the Town.
12. The structures proposed are found to be satisfactory to the Town.

13. If accessory structures are proposed, the application provides information regarding accessory structures that meet the intent of the Accessory Structures standards of this Section and Chapter 30 of the Municipal Code.
14. Compliance with mitigation co-location standards and requirements established by this Section and Chapter 30 of the Municipal Code.

D. *Timeframes for Review.* All WCFs, other than those specified below shall be reviewed according to the following timeframes:

1. Review of an application to collocate a facility on an Existing Tower or Base Station: 90 days.

2. Review of an application to deploy a Small Cell Facility on a new structure: 90 days.

3. Review of an application to deploy a WCF other than a Small Cell Facility on a new structure: 150 days.

4. Review of an application for a new Tower, Base Station, or Alternative Tower Structure: 150 days.

5. Tolling the Timeframe for Review. Except for WCFs specified below in subsections ~~(F) (G)~~ (i), (ii), and (iii), the relevant review timeframe begins to run when the application is filed with the Town, and may be tolled only by mutual agreement or where the Town determines that an application is incomplete.

6. To toll the timeframe for incompleteness, the Town shall provide written notice to the applicant within thirty (30) calendar days of receipt of the application, specifically delineating all missing documents or information required in the application;

7. Upon providing the notice of incompleteness to the applicant, the timeframe for review pauses. The timeframe for review begins running again when the applicant makes a supplemental written submission in response to the Town's notice of incompleteness; and

ii. Following a supplemental submission, the Town will notify the applicant within ten (10) business days whether the supplemental submission did not provide the information identified in the original notice delineating missing information. The timeframe is tolled in the case of second or subsequent notices pursuant to the procedures identified in subparagraph b of this subsection. In the case of a second or subsequent notice of incompleteness, the Town may not specify missing documents or information that were not delineated in the original notice of incompleteness.

8. The Town may also toll the timeframe for review if Town staff determines, based on its available resources, that it cannot reasonably and adequately review the collocation application or siting application as well as a previously submitted land use application related to housing intended to provide affordable or attainable housing, renewable energy, projects of governmental entities, or any other project. This period of tolling will only occur once and will not be longer than forty-five (45) days. The Town will notify the applicant in writing within thirty (30) days after submission of the collocation application or siting application of the duration of the period of tolling and the reason for its determination.

E. *Specific Review Procedures for Collocating Small Cell Facilities on Existing Towers or Base Stations*. Within ten (10) business days of receipt of an application for a Small Cell Facility, the Town shall provide written comments to the applicant determining completeness of the application and setting forth any modifications required to complete the application to bring the proposal into full compliance with the requirements of this subsection.

1. To toll the timeframe for incompleteness, the Town must provide written notice to the applicant within ten (10) business days of receipt of the application, specifically delineating all missing documents or information required in the application.

2. The timeframe for review resets to zero (0) when the applicant makes a supplemental written submission in response to the Town's notice of incompleteness.

3. Following a supplemental submission, the Town will notify the applicant within ten (10) business days whether the supplemental submission provided the information identified in the original notice delineating missing information. If the application remains incomplete, the timeframe is tolled pursuant to the procedures identified in subparagraphs (1) and (2) of this paragraph. In the case of a second or subsequent notice of incompleteness, the Town may not specify missing information or documents that were not delineated in the original notice of incompleteness.

F. Specific Review Procedures for Eligible Facilities Requests.

1. Application. Eligible Facilities Requests for Collocation on or modification of an Existing Tower or Base Station shall be considered a use by right subject to administrative review and determination by the Town. The Town shall prepare, and from time to time revise and make publicly available, an application form which shall be limited to the information necessary for the Town to consider whether an application for Collocation or modification is an Eligible Facilities Request. Such information may include, without limitation, whether the project:

    a. results in a Substantial Change to the physical dimensions of the Site; or

    b. violates a generally applicable law, regulation, or other rule reasonably related to public health and safety.

    The application may not require an applicant to demonstrate a need or business case for the proposed modification or Collocation.

2. Time frame for EFR review. Subject to the tolling provisions below, an application for an Eligible Facility Request shall be approved within sixty (60) days of the date of the request unless the Town determines that it does not qualify as an Eligible Facilities Request. Upon receipt of an application for an Eligible Facility Request pursuant to this subsection, the Town shall review such application to determine whether the application so qualifies.

    a. Tolling the Timeframe for EFR Review.

        i. The sixty (60) calendar day review period begins to run when the application is filed with the Town, and may be tolled only by mutual agreement or where the Town determines that an application is incomplete:

        ii To toll the timeframe for incompleteness, the Town must provide written notice to the applicant within thirty (30) calendar days of receipt of the application, specifically delineating all missing documents or information required in the application;

        iii. Upon notice of incompleteness to the applicant, the timeframe for review pauses. The timeframe for review begins running again when the applicant makes a supplemental written submission in response to the Town's notice of incompleteness; and

3. Following a supplemental submission, the Town will notify the applicant within ten (10) business days whether the supplemental submission did not provide the

information identified in the original notice delineating missing information. The timeframe is tolled in the case of second or subsequent notices pursuant to the procedures identified in subparagraphs (i) and (ii) of this subsection. In the case of a second or subsequent notice of incompleteness, the Town may not specify missing documents or information that were not delineated in the original notice of incompleteness.

a.If the Town fails to approve or deny an Eligible Facility Request within the time frame for review (accounting for any tolling), the request shall be deemed granted; provided that this approval shall become effective only upon the Town's receipt of written notification from the applicant after the review period has expired (accounting for any tolling) indicating that the application has been deemed granted.

b. Interaction with Telecommunications Act 47 U.S.C. Section 332(c)(7). If the Town determines that the applicant's request is not an Eligible Facilities Request, the applicant shall be advised as to the relevant provisions of the Town Code that govern the process to consider the request, and whether the Town Code requires any additional information to be submitted in order for the request to be considered complete. If the applicant subsequently indicates an intent for the proposal to be considered under the relevant section of the Town Code and submits all required information, the presumptively reasonable timeframe under 47 U.S.C. Section 332(c)(7), as set forth in applicable federal and state law will begin to run from submittal of the required information under the applicable provision of the Town Code.

4. ***Decision***. Any decision to approve, approve with conditions, or deny an application for a WCF shall be in writing, supported by substantial evidence in a written record, and shall be provided to the Applicant within ten (10) days of the decision. If the approval is for a concealed WCF, the written decision shall specifically identify that the WCF is a concealed facility.

5. ***Compliance with Applicable Law***. Notwithstanding the approval of an application for collocation as described herein, all work done pursuant to WCF applications must be completed in accordance with all applicable building and safety requirements as set forth in the Town Code, and any other applicable regulations. In addition, all WCF applications shall comply with the following:

a. Comply with any permit or license issued by a local, state, or federal agency with jurisdiction of the WCF;
b. Comply with easements, covenants, conditions and/or restrictions on or applicable to the underlying real property;
c. Be maintained in good working condition and to the standards established at the time of application approval or as otherwise required by applicable law; and
d. Remain free from trash, debris, litter, graffiti, and other forms of vandalism. Any damage shall be repaired as soon as practicable, and in no instance more than ten (10) days from the time of notification by the Town or after discovery by the owner or operator of the Site.

6. ***Compliance Report***. Upon request by the Town, the Applicant shall provide a compliance report within forty-five (45) days after installation of a WCF, demonstrating that as installed and in operation, the WCF complies with all conditions of approval, applicable Town requirements and standard regulations.

30-16-107 **Standards for Approval**. No WCF, including Related Accessory Equipment, shall be approved unless it meets the following approval criteria:

A. Visual impacts are minimized and view corridors are protected to the greatest extent feasible.
B. Unless a Tower site, or otherwise waived pursuant to this Section, the WCF utilizes Concealment Design Techniques to avoid adverse impacts on the surrounding area, by ensuring that the facility

looks like something other than a Tower or Base Station;

a. The WCF meets the applicable design standards for the type of WCF in accordance with Section V, Design Standards; and
b. The WCF is and will be operated at all times in accordance with Section IV.

TOWN OF BERTHOUD ORDINANCE
NUMBER 1364

AN ORDINANCE AMENDING THE TOWN OF BERTHOUD CHARACTER DISTRICT GUIDE AND DESIGN GUIDELIENS

WHEREAS, the Town of Berthoud is a municipal corporation possessing all powers granted to a statutory town by Title 31 of the Colorado Revised Statutes; and

WHEREAS, the Town replaced Chapter 30 of the Municipal Code through Ordinance 1363 which necessitates an amendment to the Berthoud Character District Guide and Design Guidelines first adopted in 2021 through Resolution 28 to clarify the intent of application requirements and development standards; and

WHEREAS, the Planning Commission, after proper notice, has held a public hearing on October 9, 2025 on this Ordinance providing for a recommendation of approval from the Town Board of Trustees; and

WHEREAS, the Board of Trustees, after proper notice has held a public hearing on this Ordinance providing for the adoption of said code amendments pursuant to C.R.S. Section 31-16-203; and

WHEREAS, the proposed amendments to the Town of Berthoud Character District Guide and Design Guidelines thereto have been submitted to the Board of Trustees in writing and the Board of Trustees has determined that such amendments thereto should be adopted as herein set forth;

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN BOARD OF TRUSTEES OF THE TOWN OF BERTHOUD, COLORADO:

Section 1. That the Berthoud Character District Guide and Design Guidelines have been amended in its entirety and replaced as set forth in Exhibit A, attached is hereby adopted;

Section 2. If any section, paragraph, sentence, clause, or phrase of this Ordinance is held to be unconstitutional or invalid for any reason, such decision shall not affect the validity or constitutionality of the remaining portions of this Ordinance.

Section 3. All other Ordinances or portions thereof inconsistent or conflicting with this Ordinance or any portion hereof are hereby repealed to the extent of such inconsistency or conflict.

Section 4. The repeal or modification of any provision of the Municipal Code of the Town of Berthoud by this Ordinance shall not release, extinguish, alter, modify, or change in whole or in part any penalty, forfeiture, or liability, either civil or criminal, which shall have been incurred under such provision, and each provision shall be treated and held as still remaining in force for the purpose of sustaining any and all property actions, suits, proceedings, and prosecutions for the enforcement of the penalty, forfeiture, or liability, as well as for the purpose of sustaining any judgment, decree, or order which can or may be rendered, entered, or made in such actions, suits, proceedings, or prosecutions.

Section 5. The provisions of this ordinance shall take effect thirty days after publication as required by law, and shall apply to all development and construction permitted after such date.

INTRODUCED, READ, AND APPROVED on this 28th day of October, 2025.

TOWN OF BERTHOUD

By _____

William Karspeck, Mayor

ATTEST:

By: _____

Christian Samora, Town Clerk

READ, ADOPTED, AND APPROVED on this 10th day of November, 2025.

TOWN OF BERTHOUD

By _____

William Karspeck, Mayor

ATTEST:

By: _____

Christian Samora, Town Clerk

CHARACTER DISTRICT DESIGN GUIDE

PLACE TYPES

TOWN OF BERTHOUD DESIGN GUIDELINES

ORIGINALLY ADOPTED IN 2021 THROUGH RESOLUTION 28 (21) AND UPDATED BY ORDINANCE 1364 ON NOVEMBER 10, 2025



INTRODUCTION

These guidelines are intended to assist developers, builders, consultants and the Town of Berthoud in creating a basic guidance for the desired built form. They are organized around the following components from the established character districts in the Berthoud Comprehensive Plan Update:

PLACE TYPE Suburban Areas

- Suburban Residential
- Suburban Commercial

Pages 3-25

PLACE TYPE General Urban Areas

- Urban Residential
- Urban Industrial

Pages 26-42

PLACE TYPE Urban Center

- Old Town Residential
- Urban Downtown

Pages 43-64

Organization:

Within each section are a number of design principles and measures that address the different elements of site and building design and environmental sensitivity based on land use. Each section of the town wide Design Guidelines is organized by overarching objectives (e.g., Massing and Form, etc). Each topic includes an objective statement followed by a list of specific implementation strategies. A glossary of key terms specific to each character district is included within the last pages of each individual section.

Guidelines that promote low-impact development and sustainable practices are designated by the leaf symbol.

How To Use the Guidelines:

Property owners, developers, designers, and contractors proposing new development in Berthoud should first review the zoning of the property being developed and familiarize themselves with the Berthoud Municipal Code. They should then proceed to the Berthoud Comprehensive Plan Update, the Mountain Avenue Overlay, 1st Street Overlay, and finally, these Design Guidelines. The provisions set forth in this document identify the desired level of design quality for all development; however, flexibility is necessary and encouraged to achieve excellent design. Therefore, the use of the words "shall" and "must" have been purposely avoided within the specific guidelines. Each application for development, however, should demonstrate to what extent it incorporates these guidelines. Applications that do not meet specific guidelines applicable to that project should provide rationale for the design and explain how the project will meet the intent of the Comprehensive Plan, the Municipal Code, and these Guideline objectives. Whether the design intent is justified will be determined through Planning Department review. Appeals to Planning Department decisions will be made to the Planning Commission.

How the Guidelines are Applied:

The Guidelines are intended for the Planning Department, as well as other town agencies and department staff, developers, architects, engineers, and community members to use in processing and evaluating project designs and applications together with relevant policies from the Berthoud Comprehensive Plan, the Mountain Avenue Overlay, and 1st Street Overlay. To achieve the stated purpose, the Guidelines will apply to all new construction and substantial building alterations that require approval by the Town of Berthoud Community Development staff in the Planning Department and Building Department. Each of the Character District Design Guidelines should be considered in a proposed project, although not all will be appropriate in every case, as each project may require a unique approach. The Character District Design Guidelines provide guidance or direction for applying policies contained within the Berthoud Comprehensive Plan, the Mountain Avenue Overlay, and 1st Street Overlay. Incorporating these guidelines into a project's design will encourage more compatible architecture, attractive residential districts, pedestrian activity, context-sensitive design, and contribute to place making.



CHARACTER DISTRICT

SUBURBAN RESIDENTIAL

Vision:

The suburban guidelines intend to communicate the overall goals, and describe examples of neighborhood qualities worth emulating without limiting creativity or prescribing style. They seek to ensure construction quality, contextual design character of form and materials, and to provide clear and useful guidance through the building and development process. The intent is to clarify building form, style, and patterns and ask that future residential development provide architectural designs that create diversity and variety along residential streets. Applicable Zoning Districts include: R1, R2, and SR.

Goals:

- Provide street-facing facades to reinforce the entry and primary mass
- Articulate walls on all facades to create variety and secondary masses within the overall form.
- Provide covered porches to help articulate the entry and create space for social integration with the community.
- Bring attention to detail in the connections between the masses and material transitions of the overall building form.
- Add architectural interest by using dormers, overhangs, masonry detailing, belt courses and cornice details to keep visual interest to larger forms.
- Keep a variety in floor plans and building locations within the allowable envelope to prevent commonality across adjacent development lots.

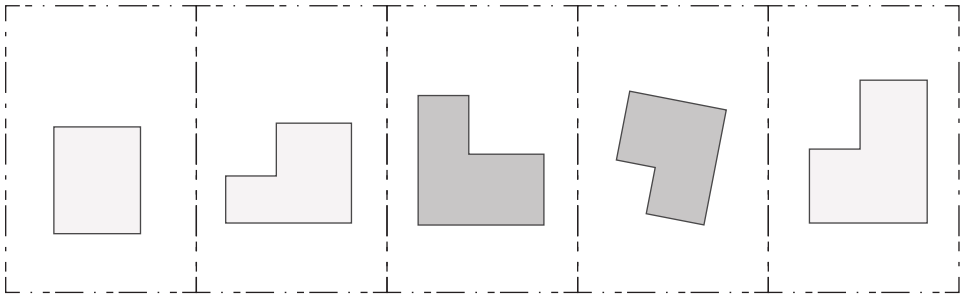
Focus Areas:

Orientation
Scale & Massing
Architecture Character
Materials
Front Porches & Entry Areas
Roof Design
Facade & Fenestration
Garages & Driveways
Fencing & Landscaping

Orientation:

1. New structures and additions should be compatible with the site arrangement, setback distance and orientation of neighboring houses to reinforce the existing character of the street. (see Graphic 1).
2. The front of the house should face the public street, with the front entry readily visible and identifiable.
3. Front entry walks are encouraged to connect to existing sidewalks, if present.
4. When possible, orient building to maximize passive solar opportunities for solar access to windows.

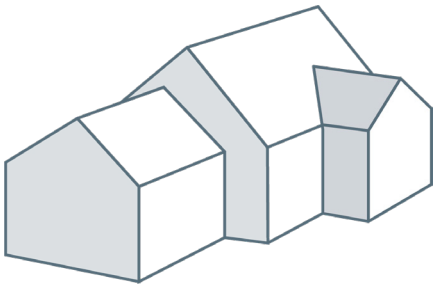
Graphic 1:



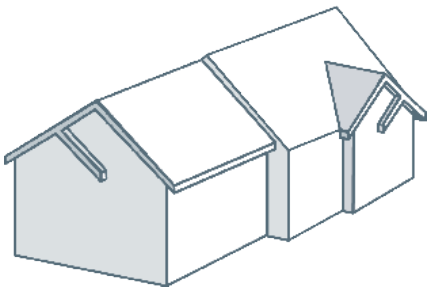
Building not oriented correctly

Scale & Massing:

1. The overall size, scale and massing of new structures or additions should be compatible with the size, scale and massing of neighboring houses. New construction, including infill construction, reconstruction, and homes built on lots that are larger than neighboring lots shall not be significantly larger in size and scale relative to neighboring houses.
2. Changes in massing should be used to avoid flat blank walls, typical on *all sides*. Architectural importance should be placed on each elevation (four sided architecture), with particular importance placed where a building is visible from public right of way or multi use path.
3. The scale of a new addition should be generally similar with the scale of the original structure.
4. The massing of a new addition should generally be subordinate in size and placement to the original structure.
5. New construction should avoid creating overly complicated massing and avoid 'faux massing' facades, such as those with multiple gables within gables.
6. Changes in massing should extend a minimum of several feet out from the plane of the facade in order to create a distinctly different mass.



Appropriate delineation of roof forms that define distinct masses



Avoid minor variations in roof height and faux massing

Architecture Character:

Berthoud seeks to preserve its small-town character and sense of place while accommodating new growth. Housing in new Master Planned Communities should reflect the town's regional and historic traditions, contribute to neighborhood quality, and foster a sense of authentic variety.

1. **Reflect Local Character:** New Master Planned Communities are expected to include a variety of housing types that represent Berthoud's regional and historic architectural traditions.
2. **Provide Housing Variety**: Neighborhoods should avoid uniformity by offering diverse floor plans, elevations, and lot sizes. Architectural designs should provide a variety of forms and housing types to promote neighborhood diversity.
3. **Engage Multiple Builders & Designers:** Large developments are encouraged to use multiple builders and design teams to ensure authentic variety and higher construction quality.



Appropriate use of different housing forms and types provide variety along street frontage



Repetitive facades lack differentiation and individual character. Slight differences in ornament do not constitute change in character

Use Regional Architectural Patterns & Forms

Cottage, Craftsman, American vernacular, Modern, Traditional/Farmhouse



Farmhouse Stick



Craftsman Cottage



American Vernacular



Tudor Cottage



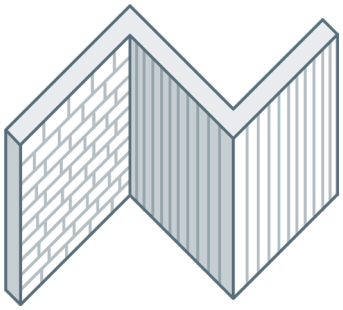
Modern Farmhouse



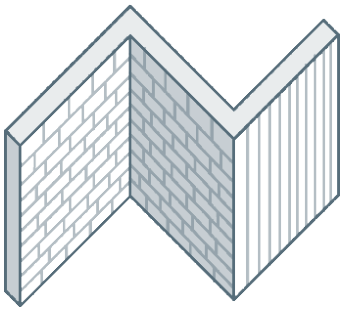
Traditional Cottage

Materials:

1. New construction should not attempt to use only one exterior material on building as the dominant theme. Additional materials should be used for accents or trim.
2. The use of two or more different facade materials is sometimes better utilized at different vertical levels. (e.g. masonry at bottom, wood clapboard above.)
3. Apply changes in material purposefully and in a manner corresponding to variations in building mass. Changes in material should not occur at outside corners; rather, they shall occur at interior corners, as a "return" of at least two feet from an external corner, or at a change in horizontal plane such as floor lines and sills.
4. Select building materials that convey a sense of permanence. Select materials that are quality, durable, and when possible, minimize embodied carbon. Acceptable materials include:
   - Masonry (Brick and Stone)
   - Stucco
   - Architectural metal panel
   - Board and Batten
   - Fiber cement siding
   - Wood Lap or T&G siding



Material wraps the corner of entire mass



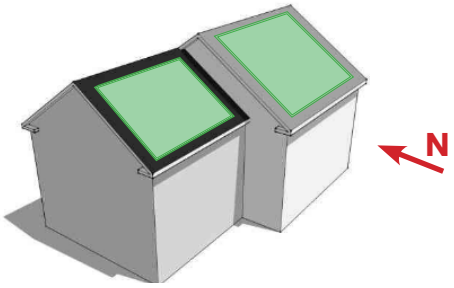
Avoid outside corner material transitions

Front Porches & Entry Areas:

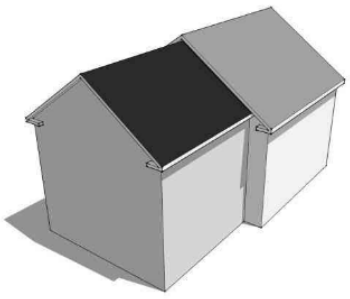
1. Incorporate transitions such as landscaping, paving, porches, stoops, and canopies at individual entrances to residences, and from the sidewalk to the front door.
2. Roof covers for the front door and porch must have a height that relates to the pedestrian scale of the street and fit with the overall form of the building mass.
3. Uncovered wood decks or porches which do not include a permanent roof overhead are prohibited along the front facade.
4. The proportion of columns or posts along a front porch or facade should appear appropriate to the amount of weight they appear to be carrying. Columns which are too thin or too thick for their height are discouraged. Alterations should be designed to match the architectural style and proportion of existing exterior columns and the beams or entablature they support.
5. Front door entry areas should be appropriately scaled to the size of the facade. Two story tall entryways or columns are generally discouraged, especially in neighborhoods where this is not common.
6. Entry Details should be:
   - Located near to grade in order to limit the stair and porch height above street
   - Include overhangs or be covered as a protected marker of entry
   - Create porches that are sized to encourage sitting and socializing with passing neighbors
   - Integrate with the overall building design and be located proud of the garage
   - Visible from the street

Roof Design

1. Additions should match the roof style and roof pitch of the original structure. Additions should match the roofing materials of the original structure, except in cases where the new roof is a very minor element to the overall design, such as roofing over a new bay window or entry vestibule.
2. Any vertical steps or fluctuations in the roof ridge should be a minimum of a few feet in difference.
3. Minor variations in roof heights are discouraged.
4. Avoid the use of fake dormer additions in roof line. Dormers should be appropriate to the scale of the roof and functional.
5. Avoid large continuous roof forms.
6. When possible, provide south facing roof area to maximize opportunities for solar panels



Roof is stepped by several feet



Avoid minor variations in roof height

Facade & Fenestration:

1. The style and proportion of windows should be generally consistent across all facades of the structure. Exceptions to this can be made, however, for the occasional specialty or decorative window as a design accent in the facade.
2. The arrangement of windows on a facade facing the road should generally align with each other in a regular pattern or readily apparent organization. Windows which appear to be randomly arranged on the facade are discouraged.
3. Large areas of blank wall are strongly discouraged along all facades of the house.
4. Variations in window muntins will not be justified as changing the architectural typology.
5. All building facades need to feature building elements that break up the over mass and scale.
6. Windows and Doors should be:
   - Consistent with the overall building style and form.
   - Made of quality materials such as metal, wood, or vinyl.
   - Provide sufficient glazing area for sunlight.
   - Provide natural ventilation with standard operating styles consistent with the home style.
   - Have flashing and trim consistent with quality construction standards.
   - Energy efficient windows encouraged (low U-factor)



Windows are consistent with building type & aligned with building massing



Windows are randomly arranged and inconsistent with one another

Garage & Driveways:

1. Garages facing the street should be set back a minimum 2 feet behind the plane of the front *facade*.
2. Detached garages should be located behind the house and set back from the road so as to appear secondary to the primary structure.
3. Driveways should only be as wide as necessary for egress in and out of the property – typically no wider than 20' at the curb cut. The width of the driveway however may get wider toward the house if necessary, to accommodate required area for garage access or turning.
4. Detached garages set back from the road or alley loaded garages that improve the streetscape are encouraged.
5. Three car garages are discouraged, but if necessary, should have the third car setback and wtihin a different massing than the two car module.



Garage is set back from the street and detached



No garage should be the most prominent feature from the street.

Fencing & Landscaping:

1. Fencing and landscaping shall comply with Town of Berthoud Design Standards, specifically referred to in ***Berthoud Development Code*** and the adopted ***Town of Berthoud Landscape Design Guidelines***.
2. Long expanses of fences should incorporate openings, changes in materials, texture, and/or landscaping. Avoid materials such as chain link, wrought iron spears, and barbed wire.
3. Fences proud of the front setback limited to 42" in height and 50% transparency
4. Retain mature and healthy vegetation and trees when developing the site.
5. Design landscaping to be architecturally integrated with the building and suitable to the functions of the space while selecting plant materials that complement the architectural style and form of the building.
6. Select drought tolerant, native landscaping to limit irrigation needs to conserve water, reduce stormwater runoff, and increase the capacity for groundwater recharge. Climate-friendly plants may be used alongside native species.



Proper use of waterwise, native, and pollinator attractive plantings



Limit the installation of sod grass to help reduce use of water in Colorado climate

Glossary



ALIGNMENT



BALUSTERS



BELT COURSE



BRACKET



CLAPBOARD

The terms and images below are defined for the **Suburban Residential** design guidelines only.

Alignment
The symetrical arrangement of objects.

Alteration
Any act or process, except repair and light construction that changes one or more of the architectural features of a structure or site, including, but not limited to, the erection, construction, reconstruction, relocation of, or addition to a structure.

Appropriate
In some cases, a stated action or design choice is defi ned as being "appropriate" in the text. In such cases, by choosing the design approach referred to as "appropriate", the reader will be in compliance with the Guideline.

Balusters
Small, upright posts that support a railing.

Belt (Band) Course
A horizontal band across or around a buildings exterior composition, can be made with masonry, metal or other siding material.

Bracket
A supporting member for a projecting element or shelf, sometimes in the shape of an inverted L and sometimes as a solid piece or a triangular truss.

Building
Any permanent structure built for the shelter or enclosure of persons, animals, chattels, or property of any kind, which is governed by the following characteristics: is permanently affixed to the land; has one or more floors and a roof; and is bounded by open space, yards, or the lot lines of a lot.

Canopy
A roof like shelter projecting horizontally from a building wall and supported by posts, or other devices anchored to the building wall.

Clapboards
Narrow, horizontal, overlapping wooden boards, usually thicker along the bottom edge, that form the outer skin of the walls of many wood frame buildings. The horizontal lines of the overlaps generally are from four to six inches apart in older houses.

Climate Friendly Planting
Landscape planting that is first and foremost water-wise, and also pollinator friendly, soil amending, shade producing, and resilient.

Glossary
(continued)



CORNICE



MASONRY DETAIL



EAVE



FASCIA

Compatible
Performing in harmonious combination with others.

Cornice
The continuous projection at the top of a wall. The top course or molding of a wall when it serves as a crowning member.

Masonry Detail
A projecting or decorative block pattern in masonry, used to form a design feature anywhere on a structure.

Doorframe
The part of a door opening to which a door is hinged. A doorframe consists of two vertical members called jambs and a horizontal top member called a lintel or head.

Eave
The underside of a sloping roof projecting beyond the wall of a building.

Embodied Carbon
The CO2 released during material extraction, manufacture, and transport, combined with construction emissions. Currently, buildings produce about 40% of the world's fossil-fuel carbon-dioxide emissions (CO2). That number can be greatly reduced by limiting the embodied carbon of our building materials.
Carbon can be minimized by focusing on top three worst offenders—concrete, steel, and aluminum, which account for 22% of all embodied CO2. Cutting down on the use of these materials, or using a concrete mix with limited embodied carbon can help reduce CO2 in building construction.

Facade
Front or principal face of a building, any side of a building that faces a street or other open space (does not include porch face).

Fascia
A flat board with a vertical face that forms the trim along the edge of a flat roof, or along the horizontal, or "eaves," sides of a pitched roof. The rain gutter is often mounted on it.

Fenestration
The arrangement of windows and other exterior openings on a building

Glossary
(continued)



GABLE



MASONRY



MOLDING



MUNTIN

Gable
The portion, above eave level, of an end wall of a building with a pitched or gambrel roof. In the case of a pitched roof this takes the form of a triangle. The term is also used sometimes to refer to the whole end wall.

Mass
The physical size and bulk of a structure.

Masonry
Construction materials such as stone, brick, concrete block or tile.

Modillions
Ornamental brackets located beneath a projecting cornice.

Molding
A decorative band or strip of material with a constant profile or section designed to cast interesting shadows. It is generally used in cornices and as trim around window and door openings.

Muntin
A bar member supporting and separating panes of glass in a window or door.

Orientation
Generally, orientation refers to the manner in which a building relates to the street. The entrance to the building plays a large role in the orientation of a building and should face the street.

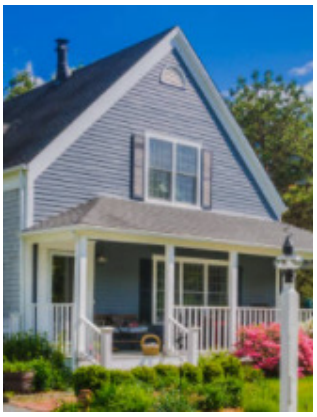
Parapet
An upward extension of a building wall above the roofline, sometimes ornamented and sometimes plain, used to give a building a greater feeling of height or a better sense of proportion.

Preferred
In some cases, the reader is instructed that a certain design approach is "preferred." In such a case, the reader is encouraged to choose the design option at hand, but all of the other approaches may be considered.

Glossary
(continued)



SIDELIGHT



SIDING



SILL



TRANSOM WINDOW

Scale
The relative size of the building and its elements (such as individual windows or materials) compared to other structures around it and the pedestrian.

Shape
The general outline of a building or its facade.

Sidelight
A usually long fixed sash located beside a door or window; often found in pairs.

Siding
The narrow horizontal or vertical wood boards that form the outer face of the walls in a traditional wood frame house. Horizontal wood siding is also referred to as clapboards. The term "siding" is also more loosely used to describe any material that can be applied to the outside of a building as a finish.

Sill
The lowest horizontal member in a frame or opening for a window or door. Also, the lowest horizontal member in a framed wall or partition.

Size
The dimensions in height and width of a building or its face.

Transom Window
A small window or series of panes above a door, or above a casement or double hung window.

Vernacular
This means that a building does not have details associated with a specific architectural style, but is a simple building with modest detailing and form. Historically, factors often influencing vernacular building were things such as local building materials, local climate and building forms used by successive generations.



CHARACTER DISTRICT

SUBURBAN COMMERCIAL

Vision:

The suburban commercial guidelines intend to communicate the overall goals, and describe examples of suburban commercial center qualities worth emulating without limiting creativity or prescribing style. They seek to ensure construction quality, contextual design character of form and materials, and to provide clear and useful guidance through the building and development process. These guidelines will help enhance the Town of Berthouds's character and image, as well as establish a cohesive of sense of place. Applicable Zoning Districts include: C1, C2, and SB/C.

Goals:

- To encourage building forms that provide human scale, interest and orientation as well as reinforce the spatial definition to public spaces.
- Encourage varied building form and profile within large structures or building groups that will help to break up the mass of large buildings when seen in the open context of the town
- Promote project amenities and pedestrian interest within each commercial center
- Provide parking and circulation systems that are safe, efficient and functional for multiple modes of transportation
- Create commonalities across commercial developments to allow for place making and quality design.

Focus Areas:

Site Planning
Pedestrian and Bicycle Circulation
Vehicular Circulation and Parking
Architectural Form and Scale
Architectural Detail
Screening
Landscape
Signage
Lighting
Requirements for larger Developments

Site Planning:

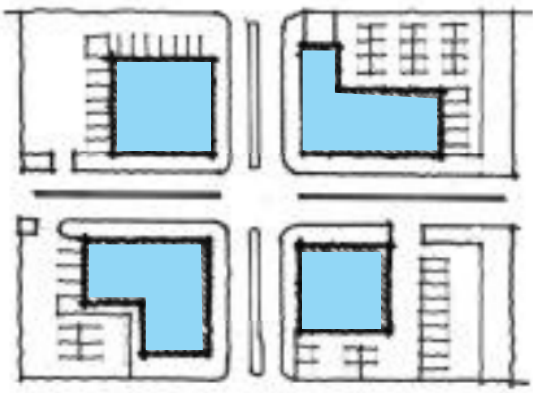
1. Buildings and site development plans shall offer attractive environments with inviting pedestrian scale features, spaces, and amenities. Examples of amenity spaces are plazas, patios, and courtyards with outdoor playground areas, patio seating areas, pavilion, park, and water feature.
2. Pedestrian-ways shall be anchored by special design features such as towers, arcades, porticos, pedestrian light fixtures, bollards, planter walls, and other architectural elements that define circulation ways and lead to outdoor amenities.
3. Avoid erecting walls, fences or berms that act as barriers to adjacent properties. Remove existing barriers and provide cross access for vehicles and pedestrians.
4. Avoid locating amenity spaces at busy intersections unless it will be well buffered by landscape and grade differential.
5. Site design should take into account sun path and the effect of ice and snow buildup in gathering areas. Situate building entries and amenity areas to maximize solar exposure.
6. Building site locations should enhance relationships between buildings and promote pedestrian and vehicular circulation between developments and adjacent lots.
7. Linear 'strip' development is discouraged. Cluster buildings and break up long linear groupings with changes in scale and mass.
8. Smaller out-lot buildings should be placed along the permimeter of the large parking lot to create building street frontage rather than parking spaces in order to hold the street corner.
9. When possible, orient building to maximize passive solar opportunities for solar access to windows.



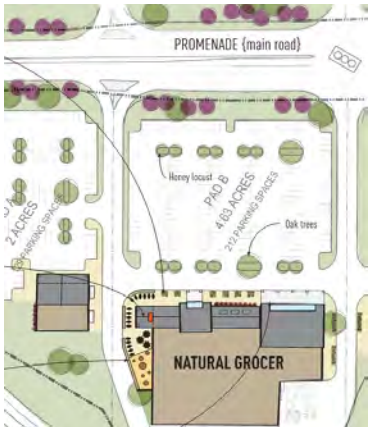
Buildings should be inviting to the pedestrian and offer amenity/public space and architectural elements that define circulation



Avoid linear strip development, unfriendly to pedestrians



Place buildings, not parking along street and at corners



Avoid large amounts of parking along streets

Pedestrian and Bicycle Circulation:

1. Continuous pedestrian walkways shall be provided to connect the public sidewalk to the principal customer entrances at each tenant space and transit stops. The drive aisle shall not be used as a pedestrian walkway.
2. Sidewalks shall be provided along the full length of the building along any facade abutting streets and parking areas.
3. Sidewalks and pedestrian ways shall be scaled to the use and expectations of pedestrian volumes in any given location with the minimum width of the sidewalk and pedestrian ways no less than 5 feet, and no less than 10 feet where retail frontage is proposed.
4. Pedestrian walkways shall be distinguished from driving surfaces through the use of durable landscape treatments and/or surface materials such as pavers, bricks, scored concrete, or similar materials.
5. Sidewalks shall connect focal areas of pedestrian activity such as transit stops, street crossings, building and store entrances, bike racks and feature adjoining landscaped areas that include trees, shrubs, lighting, signage, benches, flower beds, groundcovers or other similar amenities.
6. Bicycle paths and routes shall be designed to provide continuous circulation through the site separated from vehicle travel ways, wherever feasible.
7. Off-street bicycle parking shall be furnished and conveniently located to encourage use of alternative transportation modes.



Encourage use of raised crossings at major entries to building



Avoid simply painting crosswalks to distinguish pedestrian path



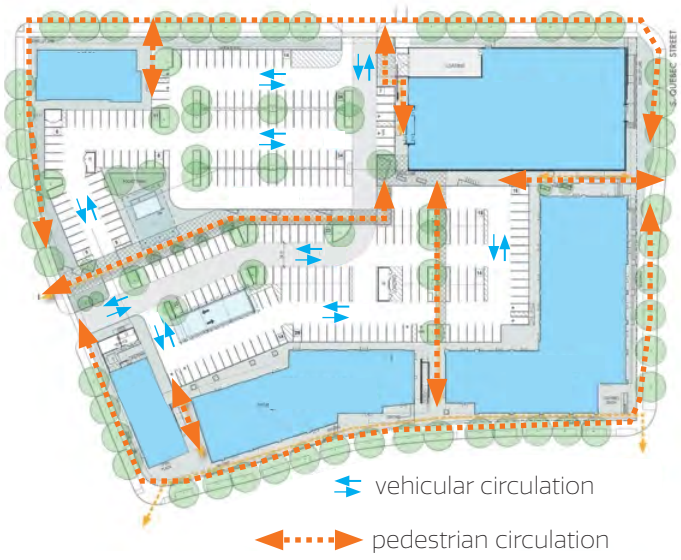
Pedestrian links through the parking lot should include changes in material and design enhancements like planters and decorative lighting

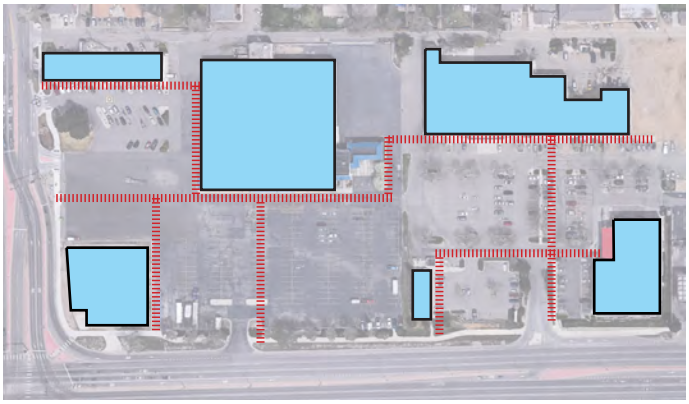


Avoid site design that does not plan for pedestrian connections

Vehicular Circulation and Parking:

1. Design parking lots to avoid dead-end aisles and, where feasible, provide connections to adjacent parking aisles, roads or lots.
2. Parking areas should be separated from buildings by either walkways or landscaped strips, preferably both. Avoid situations where parking spaces directly abut structures.
3. Parking lots are encouraged to provide a well-defined pedestrian circulation system within the site. Protected pedestrian walkways should directly link to entrances and the internal circulation of the buildings and to parking areas, and also to other buildings. Parking layout should minimize the need for pedestrians to cross parking aisles and landscape areas.
4. Use design features such as walkways with enhanced paving, trellises, or special landscape treatments to visibly and physically separate parking from pedestrian circulation
5. Divide large parking areas into a series of smaller, connected lots by using landscape buffers and other means to reduce the visual impact of large parking areas.
6. The internal vehicular and pedestrian circulation within a development involving multiple buildings or lots must interconnect in an obvious and consistent manner.
7. Internal drives should connect to public streets and/or connect private adjacent drives for a functioning transportation network.





Well organized parking layout with attention to vehicular and pedestrian circulation

Site is missing critical pedestrian connections between lots and at commercial frontages

Architectural Form and Scale:

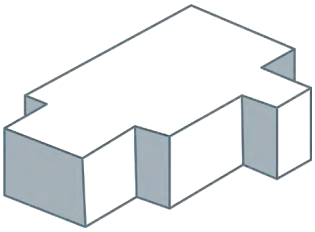
1. Buildings shall comply with Town of Berthoud Design Standards, specifically referred to in Berthoud Development Code Commercial and Industrial Standards.
2. Buildings will be visible from great distances, and should fit within their context and the mountain backdrop. Break down the mass of the building into hierarchy of volumes. Avoid monolithic structures. Shifts in massing should be no less than 2' to render sufficient.
3. Four sided design is required. All sides of a building shall display a similar level of quality and architectural interest.
4. Minimize long expanses of wall at a single height or in one plane. Vary buildings with recessed or projecting bays that create pedestrian scale space and variety in form.
5. Strong vertical elements such as windows, pilasters, columns, stairs, and towers should be used to identify individual commercial spaces, with special attention to entries. Fenestration scale should be appropriate to building form and scale.
6. Where practical, gradual transitions in height from adjacent, less intensive land uses, especially residential development, to the maximum height of the new development are desirable.
7. Emphasize building entries though building massing, special architectural features, and changes in the roof line.
8. Provide human scaled architectural features on all sides of the building. The highest level of detail should occur close to pedestrian areas, near streets and entries, and at the ground floor.
9. Buildings should address the street with window frontage and building entries where possible. Glazing within a façade that adjoins a public street, pedestrian walk or bikeway shall be generally transparent as viewed from the exterior during daylight hours. Special design considerations should be given to windows when 'back of house' functions are along the public street or walkway.
10. Provide pedestrian breaks in long buildings (at least every 350 ft). Open air pedestrian passageways are preferable to interior and can be an attractive location for store entries, window displays and restaurant seating.
11. Consider the installation of solar panels in all roof design configurations and site design layout.



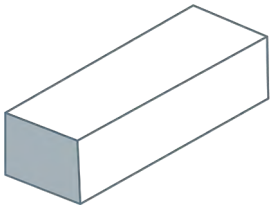
Emphasis on entry and special attention given to the pedestrian level experience and street frontage.



No hierarchy of entries or break up of massing to distinguish interior functions. No attention paid to the pedestrian experience



Vertical Articulation



Monolithic Structure

Architectural Detail:

1. The primary entrance of a building or store should have a clearly defined, visible entrance with distinguishing features. The addition of a canopy, portico, or other prominent element of the architectural scheme is encouraged.
2. No less than 30% of the building material should be full depth masonry. Masonry color should reflect the historic Berthoud style of muted red earth tones.
3. Light to medium intensity colors with low reflectivity are preferred. In general, subdued colors typical of the muted native grasses, wood, rocks, and soil of the high Colorado plains and Berthoud's natural setting are to be used. Brighter colors may be used for accents, trim or highlighting architectural features. Architectural detailing should relate to the Historic Berthoud context.
4. Secondary materials such as stone, brick, precast concrete, cast stone, wood, and architectural metals can be combined to enrich the appearance of a building and highlight architectural features.Select materials that have a human scale and will allow people to relate to the size of the building. Examples include stone and brick. Non-modular exterior materials, such as stucco and concrete will need extra detail to reduce building bulk to create human scale.
5. Select materials that have a human scale and will allow people to relate to the size of the building. Examples include stone and brick. Non-modular exterior materials, such as stucco and concrete will need extra detail to reduce building bulk to create human scale.
6. Apply changes in material purposefully and in a manner corresponding to variations in building mass. Changes in material should not occur at outside corners; rather, they shall occur at interior corners, or at a change in horizontal plane such as floor lines and sills.
7. Energy efficient windows and doors are encouraged (low U-factor).
8. Select building materials that convey a sense of permanence. Select materials that are quality, durable, and when possible, minimize embodied carbon. Acceptable materials include:
   - Masonry
   - Stucco
   - Architectural metal panel
   - Fiber cement siding or panels
   - Wood (protected finish)
   - Wood look finish



Appropriate use of primary and secondary quality materials in a manner corresponding with building massing



Inappropriate use of a secondary architectural material to enhance the design.

Screening:

1. Screening shall comply with Town of Berthoud Design Standards, specifically referred to in Berthoud Development Code.
2. Delivery, loading, trash and other service areas must be screened or integrated into the building.
3. Roof access should be provided from the interior of the building. Exterior roof access ladders are not appropriate.
4. All mechanical equipment must be indicated on the architectural drawings. Roof-mounted mechanical equipment should be concealed from public view on all sides by screening in a manner consistent with the character of the building that **appear as integral elements of the overall building design**.
5. Ground level mechanical equipment shall be screened with landscaping, berms and architectural walls using materials compatible with the building. Fencing materials are not allowed.



Appropriate use of rooftop screening integrated into the architectural form



Inappropriate screening of mechanical equipment

Landscape:

1. Landscape shall comply with Town of Berthoud Design Standards, specifically referred to in Berthoud Development Code Landscape Design. Projects are encouraged to exceed code standards.
2. Landscaping must be incorporated in the design of pedestrian areas along the building fronts. Plantings for pedestrian areas should be designed with attention to color, texture and form. Use a variety of trees, shrubs, perennials, and ground covers. Provide seasonal plantings in planters, pots, hanging pots and beds to add color, beauty and variation.
3. Select drought tolerant, native landscaping to limit irrigation needs to conserve water, reduce stormwater runoff, and increase the capacity for groundwater recharge.
4. Provide outdoor furnishings where they can stimulate pedestrian activity. Chose furniture styles, materials, and colors that will complement each other (and nearby furnishings on adjacent properties), impart a distinctive character, and be durable
5. Rock used as non-living ground cover should be unobtrusive and generally darker in tone.
6. Retaining walls must be constructed of a high quality material such as stone, masonry block with an integral color and exterior texture, concrete with stone, or brick. Material selection should take into account the character and materials of the buildings as well as the landscape theme. The maximum height is 4-feet.

Requirements for Larger Developments

All property owners of large lot commercial development that is a part of a site-specific development plan such as a Site Plan or Use by Special Review are responsible for developing design guidelines that are approved with the development agreement. This requirement is meant to be a quality control on pad development as sites are transferred or sold.

The below guideline checklist should be used to establish a design guideline document, to be submitted to the Town of Berthoud for review.

Introduction

- Provide a description of the development and the area of coverage.
- Provide contact information for specific questions or concerns (names, phone numbers and
- hours of operation).

Architectural Character

- Provide direction on the architectural character desired.
- Provide precedent imagery that supports the desired character

Materials

- Provide a palette of approved materials for all building elements. Examples include:

Roof
Paint Colors
Masonry
Glazing
Trim Colors
Accent Colors

Signage:

1. Signage shall comply with Town of Berthoud Design Standards, specifically referred to in Berthoud Development Code Signs.
2. Building elements must not function as signage. The appearance of "franchise architecture", where the building functions as signage is discouraged. Incorporation of franchise or business design elements unique or symbolic of particular business must be unobtrusive and secondary to the overall architectural design.
3. All signage shall be coordinated throughout a retail commercial center to give the appearance of a unified, cohesive center, and to contribute to the overall design theme of the center. All signs should be similar in size and materials.
4. Monument signs should be used as an extension of the development style and must incorporate design and materials that match the architecture of the development.



Appropriate scale and signage coordinated with commercial center design



Inappropriate use of colors and symbolic architectural features

Lighting:

1. Lighting shall comply with Town of Berthoud Design Standards, specifically referred to in Berthoud Development Code Outdoor Lighting and Dark Sky Compliant Standards.
2. Design elements that may function as signage, roof lights, exposed neon lighting, illuminated trim of buildings or building elements, translucent awnings or illumination of translucent awnings, is not encouraged.v
3. The style and placement of exterior accent lighting should enhance the building's architectural elements such as entry features, pilasters, columns, and landscaping.



Appropriate use of dark sky lighting to enhance the building design



Lighting does not meet dark sky standards

Glossary



ALIGNMENT



AMENITY FEATURE



ARCADE



ARTICULATION



CANOPY

The terms and images below are defined for the **Suburban Commercial** design guidelines only.

Alignment
The arrangement of objects along a straight line.

Amenity Feature
Any item used to enhance the usability and pedestrian experience of a project, including but not limited to: Outdoor seating, public art, recreational facilities, water features, enhanced landscaping, etc.

Amenity Zone
An area along the street curb where trees, planters, furnishings and lighting are arranged. This area is typically a minimum of 5 feet in width with larger areas encouraged where it fits the pedestrian scale.

Arcade
A roofed passageway over a pedestrian walkway.

Architectural Bay
The area between two vertical elements, usually structural supports, that is usually spaced in repetition.

Articulation
A juncture in the face of a building that generally provides relief in an otherwise flat surface.

Belt Course
Referred to in masonry construction as a continuous row of a pattern of masonry around the façade of a building.

Canopy
A roof like shelter projecting horizontally from a building wall and supported by posts, or other devices anchored to the building wall.

Character
A viewer's impression of the elements which make up a particular composition of the landscape, trees, buildings, space, furniture, materials and colors.

Climate Friendly Planting
Landscape planting that is first and foremost water-wise, and also pollinator friendly, soil amending, shade producing, and resilient.

Compatible
Architecture that coexists with its surroundings without trouble or conflict This would typically involve the physical appearance of buildings, interfacing with planning and landscape goals and objectives.

Glossary
(continued)



COMMERCIAL STREET



CORNICE



FACADE



FRANCHISE ARCHITECTURE



HUMAN SCALE

Commercial Street
A street where the primary activity is to provide goods and services to the public. An area of shops, stores, service businesses and offices.

Cornice
The continuous projection at the top of a wall. The top course or molding of a wall when it serves as a crowning member.

Dark-Sky Compliant
Shielded lighting fxtures which protect adjoining properties from lighting spillover and glare.

Embodied Carbon
The CO2 released during material extraction, manufacture, and transport, combined with construction emissions. Currently, buildings produce about 40% of the world's fossil-fuel carbon-dioxide emissions (CO2). That number can be greatly reduced by limiting the embodied carbon of our building materials.
Carbon can be minimized by focusing on top three worst offenders—concrete, steel, and aluminum, which account for 22% of all embodied CO2. Cutting down on the use of these materials, or using a concrete mix with limited embodied carbon can help reduce CO2 in building construction.

Facade
Front or principal face of a building, any side of a building that faces a street or other open space.

Fascia
A flat board with a vertical face that forms the trim along the edge of a flat roof, or along the horizontal, or "eaves," sides of a pitched roof. The rain gutter is often mounted on it.

Fenestration
The arrangement of windows and other exterior openings on a building.

Form
The overall shape of a structure (i.e., most structures are rectangular in form).

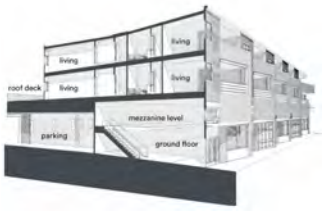
Franchise Architecture
Building design that is trademarked or identified with a particular chain or corporation and is generic in nature

Hardscape
Exterior ground surface areas which are paved with some impervious material.

Glossary
(continued)



MASONRY



MIXED USE



MODULE



MOLDING



PILASTER

Heirarchy
The articulation of the importance or significance of a form or space by its size, shape, or placement relative to the other forms and spaces of the organisation.

Human Scale
Proportions of elements that relate to the size of a human body.

Kickplate
Found beneath the display window. Sometimes called bulk-head panel.

Masonry
Construction materials such as stone, brick, concrete block or tile.

Mixed-Use
A project which combines one or more commercial uses and multiple dwelling units in a single building or development.

Module
The appearance of a single facade plane, despite being part of a larger building. One large building can incorporate several building modules.

Molding
A decorative band or strip of material with a constant pro-file or section designed to cast interesting shadows. It is generally used in cornices and as trim around window and door openings.

Muntin
A bar member supporting and separating panes of glass in a window or door.

Orientation
Generally, orientation refers to the manner in which a building relates to the street. The entrance to the building plays a large role in the orientation of a building and should face the street.

Parapet
An upward extension of a building wall above the roofline, sometimes ornamented and sometimes plain, used to give a building a greater feeling of height or a better sense of proportion.

Pediment
A triangular section framed by a horizontal molding on its base and two sloping moldings on each of its sides. Usually used as a crowning member for doors, windows and mantles.

Pilaster
A pillar or column set into a wall as an ornamental relief.

Glossary
(continued)



PORTICO



REVEAL



STOREFRONT



STREETSCAPE

Portico
A porch having a roof supported by columns, often leading to the entrance of a building.

Preferred
In some cases, the reader is instructed that a certain design approach is "preferred." In such a case, the reader is encouraged to choose the design option at hand, but all of the other approaches may be considered.

Reveal
A space or an indention in the surface of a building that defines a transition of separate materials or is used as an accent in the field of the same material.

Scale
The relative size of the building and its elements (such as individual windows or materials) compared to other structures around it and the pedestrian.

Shape
The general outline of a building or its facade.

Siding
The narrow horizontal or vertical wood boards that form the outer face of the walls in a traditional wood frame house. Horizontal wood siding is also referred to as clapboards. The term "siding" is also more loosely used to describe any material that can be applied to the outside of a building as a finish.

Storefront
Exterior facade of a commercial building. Includes the following architectural elements: display window, transom, kickplate, entry, cornice molding, and upper story windows.

Streetscape
Generally, the streetscape refers to the character of the street, or how elements of the street form a cohesive environment.

Transom Window
A small window or series of panes above a door, or above a casement or double hung window.

Vernacular
This means that a building does not have details associated with a specific architectural style, but is a simple building with modest detailing and form. Historically, factors often influencing vernacular building were things such as local building materials, local climate and building forms used by successive generations.



CHARACTER DISTRICT

URBAN RESIDENTIAL

Vision:

The urban residential guidelines intend to communicate the overall goals, and describe examples of housing qualities worth emulating without limiting creativity or prescribing style. Multi-family housing can include a variety of forms and densities and these guidelines will provide direction to ensure construction quality, contextual design character of form and materials, and to provide clear and useful guidance through the building and development process. The intent is to clarify building form, style, and patterns and ask that future residential multi family development provide architectural designs that create quality neighborhoods with vehicular and pedestrian connections to connect to the existing fabric. Applicable Zoning Districts include: R3 & R4.

Goals:

- Highlight the role quality building design plays in creating attractive neighborhoods and can contribute to neighborhood character and create a sense of place.
- Encourage architectural design where the massing and design elements create a well-proportioned building form and promote an overall architectural concept.
- Build multi-family housing that has a residential vernacular. Include gable-facing rooflines, façade shifts, varied colors, quality materials, and locating parking in areas where it is not visible from the street
- Bring attention to detail in the connections between the masses and material transitions of the overall building form.
- Allow for a variety of open space in new developments, including courtyards and usable open space.
- Create attractive, walkable streetscapes for the pedestrian.

Focus Areas:

Site Design	Parking and Circulation
Scale & Massing	Roof Design
Architecture Character	Facade & Fenestration
Materials and Color	Fencing & Landscaping

Site Design:

1. Primary building entrances clearly defined and located towards the street is preferred.
2. The depth of front yards should be consistent with adjacent residential areas. Projects should have compatible setbacks to those of their adjacent neighbors. Larger projects with differing setbacks within the project may be necessary and found appropriate by staff review.
3. Developments should extend pedestrian walks to adjacent community streets, trails and open spaces whenever possible. A convenient and continuous system of walkways that connect common outdoor space with public sidewalk is recommended.
4. Alley parking is a minimum requirement for the urban residential district. When parking areas are necessary, they should be located at the rear or internal to the site.
5. Install bike parking near building entrances, especially in projects located along transit lines and near commercial services. Ensure they are safe, well-lit and convenient for residents and visitors.
6. When possible, orient building to maximize passive solar opportunities for solar access to windows.

Scale & Massing:

1. The overall size, scale and massing of new structures or additions should be compatible with the size, scale and massing of neighboring development. New construction should create transitions of appropriate height and scale.
2. Changes in massing should be used to avoid flat blank walls, typical on *all sides*. Design projects to avoid large box like forms with continuous unrelieved surfaces.
3. In low and medium density residential zones, reduce the visual impact of upper stories by
   - locating taller buildings in central areas of development
   - setback upper stories from floors below
   - tuck upper stories within a pitched roof form and utilize dormers for space.
4. Large buildings should be divided into small modules of similar size to adjacent properties.
5. New construction should avoid creating overly complicated massing and avoid 'faux massing' facades, such as those with multiple gables within gables.
6. Changes in massing should extend a minimum of several feet out from the plane of the facade in order to create a distinctly different mass. At a minimum, definitions in building plane should be used along every public and private street frontage and development edges so that bulk seen from neighboring properties is reduced.
7. Minimize bulk of buildings by limiting building length, or designing buildings with two or more of the following:
   - Horizontal and vertical massing changes (instead of a long flat wall)
   - Changes in roof form and height,
   - Major full-height recesses (typically at least 10 feet deep) along the length of the building that successfully break the building into smaller discrete masses.



Appropriate delineation of roof forms that define distinct masses and transition to neighboring scales



Avoid faux massing to break up large masses

Architecture Character:

1. Provide opportunities for craftsmanship, ornament, proportions, and decoration that are consistent with regional historic archetypes.
2. Building designs should provide architectural elements that are substantial in depth to create shadow and relief. Incorporate features, consistent with the design character, that provide articulation and interest
   - Railings with design that reinforces the architectural style of the building
   - Use a variety (but never an abundance) of complementary materials, with special attention to the pedestrian level and the human scale (re: Materials).
   - Use decorative trim elements that add detail and articulation
3. Emphasize building entrances with architectural features and landscape treatments



Appropriate entry feature and cohesive architectural elements



Building entrance not apparent with architectural or landscape features

Materials:

1. New construction should not attempt to use only one exterior material on building as the dominant theme. Up to three complementary materials are encouraged on larger buildings, with additional materials used for accents or trim. Additional materials may be necessary and found appropriate by staff review.
2. Select materials (particularly at the pedestrian scale) that have a human scale and will allow people to relate to the size of the building. Examples include stone and brick. non-modular exterior materials, such as stucco and concrete will need extra detail to reduce building bulk to create human scale.
3. Apply changes in material purposefully and in a manner corresponding to variations in building mass. Changes in material should not occur at outside corners; rather, they shall occur at interior corners, or at a change in horizontal plane such as floor lines and sills.
4. Select building materials that convey a sense of permanence. Select materials that are quality, durable, and when possible, minimize embodied carbon. Acceptable materials include:
   - Masonry
   - Stucco
   - Board and Batten
   - Fiber cement siding or panels
   - Architectural metal panels
   - Wood (protected finish)



Appropriate use of simple, human scale materials at pedestrian level. Material changes occur at inside corners and **not** outside corners



Avoid garish colors and material or color changes within the same building plane

Parking and Circulation:

1. The minimum number of curb cuts into developments is preferred, to preserve sidewalk, landscaping,on street parking, and minimize paving.
2. Combined access drives are encouraged within adjacent developments. If shared access is not possible, then landscape buffering between drives is encouraged.
3. Locate parking to minimize disturbance from public view. Solutions may include internal parking, rear yard parking, below grade parking, tuck under parking and parking wrapped with living space.
4. Parking located between the building and the street is not preferred. Landscaped front yards along the street should be preserved to create attractive street frontage.
5. Large parking areas should be divided into smaller segments with landscaping and common areas.
6. Create buffer zones between pedestrians and moving vehicles with landscape.
7. In larger neighborhoods, incorporate pedestrian connections, or paseos, midblock to facilitate pedestrian access throughout the development.
8. Parking lots should be screened from view of adjacent properties with landscape per Town of Berthoud Design Standards, specifically referred to in Berthoud Development Code Landscape Design.



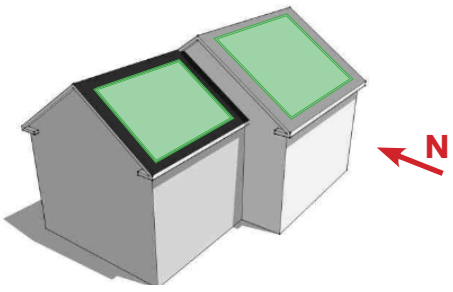
Incorporate pedestrian connections throughout site to break up larger building masses



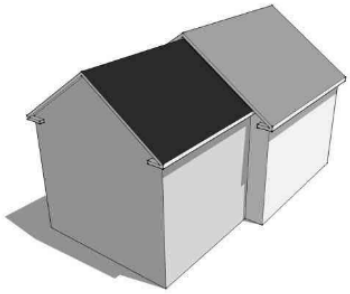
Avoid large parking areas without buffer zones between vehicles and pedestrian walkways.

Roof Design:

1. Variable roof forms are encouraged. Avoid boxy residential buildings by incorporating changes in roof height, offsets, dormers, etc.
2. Any vertical steps or fluctuations in the roof ridge should be a minimum of a few feet in difference. Minor variations in roof heights are discouraged.
3. Avoid large continuous roof forms.
4. Consider the installation of solar panels in all roof design configurations and site design layout.



Roof is stepped by several feet and oriented for solar on site



Avoid minor variations in roof height

Facade & Fenestration:

1. The style and proportion of windows should be generally consistent across all facades of the structure. Differentiations in size and proportion shall be consistent and should reflect different residential components like living space, bedrooms, entrances, etc.
2. The arrangement of windows on a facade facing the road should generally align with each other in a regular pattern or readily apparent organization. Windows which appear to be randomly arranged on the facade are discouraged.
3. Large areas of blank wall are strongly discouraged along all sides of the building.
4. All building facades need to feature building elements that break up the mass and scale.
5. Balconies should have a size and location that maximizes use. Usable balconies that are covered and substantial in size are encouraged. Avoid 'tacked on' balconies with limited purpose.
6. Windows and Doors should be:
   - Consistent with the overall building style and form.
   - Made of quality materials such as metal, wood, or vinyl.
   - Provide sufficient glazing area for sunlight.
   - Provide natural ventilation with standard operating styles consistent with the building style.
   - Have flashing and trim consistent with quality construction standards.
   - Incorporate elements such as recesses, trim and bucking to create shadows and add architectural interest.
   - Energy efficient windows and doors are encouraged (low U-factor).



Balconies are of usable size and protected



Avoid unprotected, exposed balcony space

Fencing & Landscaping:

1. Fencing and landscaping shall comply with Town of Berthoud Design Standards, specifically referred to in Berthoud Development Code Fences and Walls and Landscape Design.
2. Long expanses of fences should incorporate openings, changes in materials, texture, and/or landscaping. Avoid materials such as chain link, wrought iron spears, and barbed wire.
3. Front yard landscaped areas shall be compatible with streetscape improvements on the adjacent properties.
4. Whevever possible, retain mature and healthy vegetation and trees when developing the site.
5. Design landscaping to be architecturally integrated with the building and suitable to the functions of the space while selecting plant materials that complement the architectural style and form of the building.
6. Limit the use of privacy plantings such as hedges, and set them back from the property line to avoid overgrowth into the public sidewalks.
7. Select drought tolerant, native landscaping to limit irrigation needs to conserve water, reduce stormwater runoff, and increase the capacity for groundwater recharge. Climate friendly plants may be used alongside native species.
8. Provide common amenities such as community gardens, park areas and playgrounds. Areas should maintain a balance of landscaping and paved area.

Screening:

1. Screening shall comply with Town of Berthoud Design Standards, specifically referred to in Berthoud Development Code.
2. Delivery, loading, trash and other service areas must be screened or integrated into the building.
3. Roof access should be provided from the interior of the building. Exterior roof access ladders are not appropriate.
4. All mechanical equipment must be indicated on the architectural drawings. Roof-mounted mechanical equipment should be concealed from public view on all sides by screening in a manner consistent with the character of the building. Screening should **appear as and integral element of the overall building design**.
5. Ground level mechanical/utility equipment shall be screened with landscaping, berms and architectural walls using materials compatible with the building. Fencing materials are not allowed.



Appropriate trash screening in a manner consistent with building materials.



Inappropriate screening of trash and service equipment areas from public view

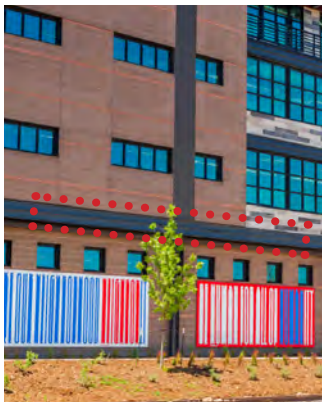
Glossary



ALIGNMENT



BALUSTERS



BELT COURSE



BRACKET

The terms and images below are defined for the **Urban Residential** design guidelines only.

Alignment
The symmetrical arrangement of objects.

Appropriate
In some cases, a stated action or design choice is defined as being "appropriate" in the text. In such cases, by choosing the design approach referred to as "appropriate", the reader will be in compliance with the Guideline.

Balusters
Small, upright posts that support a railing.

Belt (Band) Course
A horizontal band across or around a buildings exterior composition, can be made with masonry, metal or other siding material.

Bracket
A supporting member for a projecting element or shelf, sometimes in the shape of an inverted L and sometimes as a solid piece or a triangular truss.

Building
Any permanent structure built for shelter or enclosure, governed by the following characteristics: is permanently affixed to the land; has one or more floors and a roof; and is bounded by open space, yards, or the lot lines of a lot.

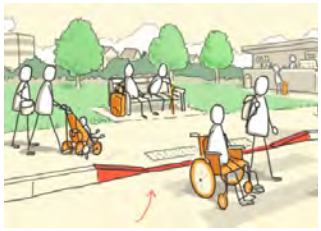
Canopy
A roof like shelter projecting horizontally from a building wall and supported by posts, or other devices anchored to the building wall.

Climate Friendly Planting
Landscape planting that is first and foremost water-wise, and also pollinator friendly, soil amending, shade producing, and resilient.

Compatible
Performing in harmonious combination with others.

Cornice
The continuous projection at the top of a wall. The top course or molding of a wall when it serves as a crowning member.

Glossary
(continued)



CURB CUT



DARK SKY COMPLIANT



EAVE



FENESTRATION



MASONRY

Curb Cut
A ramp leading smoothly down from a sidewalk into a street. Small curb cuts can be used for pedestrian crossings, wider cuts are vehicular access points into developments from the street.

Dark-Sky Compliant
Shielded lighting fxtures which protect adjoining properties from lighting spillover and glare.

Eave
The underside of a sloping roof projecting beyond the wall of a building.

Embodied Carbon
The CO2 released during material extraction, manufacture, and transport, combined with construction emissions. Currently, buildings produce about 40% of the world's fossil-fuel carbon-dioxide emissions (CO2). That number can be greatly reduced by limiting the embodied carbon of our building materials.
Carbon can be minimized by focusing on top three worst offenders—concrete, steel, and aluminum, which account for 22% of all embodied CO2. Cutting down on the use of these materials, or using a concrete mix with limited embodied carbon can help reduce CO2 in building construction.

Facade
Front or principal face of a building, any side of a building that faces a street or other open space.

Fenestration
The arrangement of windows and other exterior openings on a building

Ground Floor
The lowest story within a building which is accessible from the street.

Lot Coverage
That portion of a lot which, when viewed from above, is covered by a building.

Mass
The physical size and bulk of a structure.

Masonry
Construction materials such as stone, brick, concrete block or tile.

Masonry Detail
A projecting or decorative block pattern in masonry, used to form a design feature anywhere on a structure.

Glossary
(continued)



MIXED USE



PASEO



PEDESTRIAN AMENITY



PARAPET



PEDESTRIAN LIGHTING

Mixed-use
A project which combines one or more commercial uses and multiple dwelling units in a single building or development.

Modillions
Ornamental brackets located beneath a projecting cornice.

Molding
A decorative band or strip of material with a constant profile or section designed to cast interesting shadows. It is generally used in cornices and as trim around window and door openings.

Orientation
Generally, orientation refers to the manner in which a build-ing relates to the street. The entrance to the building plays a large role in the orientation of a building and should face the street.

Paseo
A walkway, typically open to sky, that provides pedestrian passage between structures, through landscaping, or through parking lots, which is distinguished by pedestrian surface treatments that facilitate ease or movement and pleasurable experience.

Pedestrian Amenities
Outdoor sidewalk faces, public plazas, retail courtyards, water features, kiosks, paseos, arcades, patios, covered walkways, or spaces for outdoor dining or seating that are located on the Ground Floor, and that are accessible to and available for use by the public.

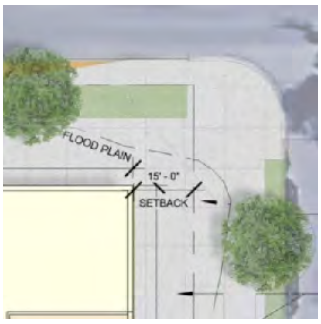
Parapet
An upward extension of a building wall above the roofline, sometimes ornamented and sometimes plain, used to give a building a greater feeling of height or a better sense of proportion.

Preferred
In some cases, the reader is instructed that a certain design approach is "preferred." In such a case, the reader is encouraged to choose the design option at hand, but all of the other approaches may be considered.

Portico
A porch having a roof supported by columns, often leading to the entrance of a building.

Pedestrian Lighting
Freestanding lighting fixtures not exceeding a height of thirty-six 36 inches from ground/grade level.

Glossary
(continued)



SETBACK



SIDING



SILL



TRANSOM WINDOW

Scale
The relative size of the building and its elements (such as individual windows or materials) compared to other structures around it and the pedestrian.

Setback
A placing of a face of a building on a line some horizontal distance from the building line or of the wall below; The distance of a structure or other feature from the property line or other feature.

Shape
The general outline of a building or its facade.

Sidelight
A usually long fixed sash located beside a door or window; often found in pairs.

Siding
The narrow horizontal or vertical wood boards that form the outer face of the walls in a traditional wood frame house. Horizontal wood siding is also referred to as clapboards. The term "siding" is also more loosely used to describe any material that can be applied to the outside of a building as a finish.

Sill
The lowest horizontal member in a frame or opening for a window or door. Also, the lowest horizontal member in a framed wall or partition.

Size
The dimensions in height and width of a building or its face.

Transom Window
A small window or series of panes above a door, or above a casement or double hung window.

Utilities
Uses that provide the transfer or delivery of power, water, sewage, storm water runoff, information, and telephone services.

Vernacular
This means that a building does not have details associated with a specific architectural style, but is a simple building with modest detailing and form. Historically, factors often influencing vernacular building were things such as local building materials, local climate and building forms used by successive generations.



CHARACTER DISTRICT

URBAN INDUSTRIAL

Vision:

The urban industrial guidelines intend to communicate the overall goals and describe examples of industrial center qualities worth emulating while also accounting for economic realities of building is this district. These guidelines are not intended to overburden prospective development with additional building and landscape requirements, but to define a consistent standard of architectural and site design that will ensure quality, long term development. When developing industrial areas, landscape and site design can have a large impact on the appearance of the buildings. These guidelines will seek to emphasize smart landscape design, aesthetically pleasing and cost effective building design, and site layout. Applicable Zoning Districts include: M1 & M2.

Goals:

- Recognize the balance required to provide attractive sites and buildings while minimizing economic challenges to industrial development.
- Provide attractive business environments for industrial users.
- Encourage quality materials and good architectural design.
- Encourage brand identity through quality architecture and placemaking.
- Allow for usable open space in industrial developments, including courtyards and usable open space.
- Create attractive, walkable developments with native landscaping and use of xeriscape.

Focus Areas:

Site Design
Landscape and Screening
Building Design

Site Design:

1. Primary building entrances clearly defined, wherever possible, locate towards the primary entrance street.
2. Provide usable open space for employees and visitors wherever possible.
3. Developments should provide pedestrian and vehicular access to and from adjacent sites. A convenient and continuous system of walkways that connect common outdoor space with public sidewalk is preferred.
4. Whenever possible group buildings around a central delivery courtyard so that loading is screened from view.
5. Locate accessory structures, storage and trash away from public right-of-way and properly screened.
6. When possible, automobile and truck access drives should be separated.
7. Screen service areas from public right-of-way and adjacent differing land uses with buildings, landscape, berming, or fencing.
8. Special attention should be paid to detention areas. When possible, detention should be shared in larger developments. Always consider the appearance of the detention area from the right of way. Buffer and soften detention areas with grading and landscape.
9. Whenever possible, large parking areas should not be located along the street frontage. Lower density visitor parking can be located in view or right of way, with higher density employee parking at the rear of the building.
10. Lighting shall comply with Town of Berthoud Design Standards, specifically referred to in Berthoud Development Code Outdoor Lighting and Dark Sky Compliant Standards.
11. When possible, orient building to maximize passive solar opportunities for solar access to windows.



Appropriate site design, with concealed truck access, pedestrian links and special attention to stormwater detention areas



Poor site planning, buildings are not organized to minimize back of house areas from public right of way

Landscape and Screening:

1. Fencing and landscaping shall comply with Town of Berthoud Design Standards, specifically referred to in Berthoud Development Code Fences and Walls and Landscape Design.
2. Use plants and landscape compatible with the industrial center design. Use coniferous plants as needed for screening to soften the appearance of buildings.
3. Screen (with landscape or fencing) all storage, loading, trash, work operations, and truck loading, particularly when adjacent different land uses.
4. Whenever possible, retain mature and healthy vegetation and trees when developing the site.
5. If landscape is limited, group planting in zones at entryways, corners and buffer zones, rather than randomly dispersing throughout the site.
6. Select drought tolerant, native landscaping to limit irrigation needs to conserve water, reduce stormwater runoff, and increase the capacity for groundwater recharge. Climate friendly plants may be used alongside native species.
7. Shade trees are encouraged in parking areas and usable open spaces (employee break areas).
8. Signage, including corporate, tenant and traffic signage, is an important element for industrial development. Signage should be incorporated into attractive monument signs with landscape used to create attractive entry features to individual developments.



Landscape provides building screening, appropriate use of coniferous plantings and incorporates shade trees at parking and usable areas



Poor use of landscape to soften industrial edge and create pleasant pedestrian experience.

Building Design:

1. Monolithic buildings are discouraged. If building mass cannot be broken up due to constraints of use (manufacturing and warehouse) use vertical and horizontal articulation, architectural detailing, and changes in material and color to create architectural interest.
2. Select materials that are quality, durable, and when possible, minimize embodied carbon. Acceptable materials include:
   - Brick or masonry block
   - Stone (natural or faux)
   - Stucco
   - Architectural metal
   - Concrete (tilt up, precast)
3. Special attention should be paid to buildings in high visibility locations such as gateway locations, corner sites, and end view sites.
4. Windows shall be used whenever possible, and placed to allow for natural daylighting to occur within interior work areas. Reflective, mirrored, or opaque glass is strongly discouraged.
5. Entrances shall be clearly defined with elements in the building design such as canopies, porticos, color palette, building material or other architectural detail.
6. Light to medium intensity colors with low reflectivity are preferred as the primary building color. In general, subdued colors typical of the muted native grasses, wood, rocks, and soil of the high Colorado plains and Berthoud's natural setting are to be used as the primary color. Brighter colors may be used for accents, trim or highlighting architectural features.
7. Consider the installation of solar panels in all roof design configurations and site design layout.



Entrances are clearly defined with architecturally distinctive features



Poor articulation of building entry and very little architectural interest

Glossary



ALIGNMENT



ARCHITECTURAL METALS



BUFFER ZONE



BRAND IDENTITY



CANOPY

The terms and images below are defined for the **Industrial Design** guidelines only.

Alignment
The symmetrical arrangement of objects.

Appropriate
In some cases, a stated action or design choice is defined as being "appropriate" in the text. In such cases, by choosing the design approach referred to as "appropriate", the reader will be in compliance with the Guideline.

Architectural Metal
Metals used for exterior application in buildings for cladding, roofing, and detailing. Architectural metal can be found in old and historic building, as well as modern architecture.

Building
Any permanent structure built for shelter or enclosure, governed by the following characteristics: is permanently affixed to the land; has one or more floors and a roof; and is bounded by open space, yards, or the lot lines of a lot.

Buffer Zone
An area between land uses providing fencing, berms, mounds, plant materials, or any combination thereof to act as visual or noise buffers.

Brand Identity
Using visible elements of a brand, such as color, design, and logo, that identify and distinguish the brand throughout a building or development.

Canopy
A roof like shelter projecting horizontally from a building wall and supported by posts, or other devices anchored to the building wall.

Climate Friendly Planting
Landscape planting that is first and foremost water-wise, and also pollinator friendly, soil amending, shade producing, and resilient.

Compatible
Performing in harmonious combination with others.

Cornice
The continuous projection at the top of a wall. The top course or molding of a wall when it serves as a crowning member.

Glossary
(continued)



FACADE



MASONRY DETAIL



ORIENTATION



PARAPET

Embodied Carbon
The CO2 released during material extraction, manufacture, and transport, combined with construction emissions. Currently, buildings produce about 40% of the world's fossil-fuel carbon-dioxide emissions (CO2). That number can be greatly reduced by limiting the embodied carbon of our building materials.
Carbon can be minimized by focusing on top three worst offenders—concrete, steel, and aluminum, which account for 22% of all embodied CO2. Cutting down on the use of these materials, or using a concrete mix with limited embodied carbon can help reduce CO2 in building construction.

Facade
Front or principal face of a building, any side of a building that faces a street or other open space.

Fenestration
The arrangement of windows and other exterior openings on a building

Industrial development
Any development involving the use of premises (land and buildings) for manufacturing, processing, bulk storage, warehousing, servicing and repair activities, or if the use of premises is unknown, any development in an industrial zone.

Mass
The physical size and bulk of a structure.

Masonry
Construction materials such as stone, brick, concrete block or tile.

Masonry Detail
A projecting or decorative block pattern in masonry, used to form a design feature anywhere on a structure.

Orientation
Generally, orientation refers to the manner in which a building relates to the street. The entrance to the building plays a large role in the orientation of a building and should face the street.

Parking Lot
An off-street, ground level open area, used for the temporary storage of motor vehicles, including necessary access drives, drive lanes, and parking stalls and excluding sidewalks, carports, garages and driveways that serve detached dwelling units, and parking garages and structures.

Glossary
(continued)



PUBLIC RIGHT OF WAY



PRIMARY BUILDING ENTRANCE



SHADE TREE



USABLE OPEN SPACE

Parapet
An upward extension of a building wall above the roofline, sometimes ornamented and sometimes plain, used to give a building a greater feeling of height or a better sense of proportion.

Preferred
In some cases, the reader is instructed that a certain design approach is "preferred." In such a case, the reader is encouraged to choose the design option at hand, but all of the other approaches may be considered.

Public Right of Way
The entire area between property boundaries: which is owned by a government, dedicated to public use, or impressed with an easement for public use; which is primarily used for pedestrian or vehicular travel; and which is publicly maintained, in whole or in part, for such use; and includes, without limitation, the street, gutter, curb, shoulder, sidewalk, sidewalk area, parking or parking strip, and any public way.

Primary Building Entrance
The principal public entrance to a building, oftentimes facing the public street.

Scale
The relative size of the building and its elements (such as individual windows or materials) compared to other structures around it and the pedestrian.

Shape
The general outline of a building or its facade.

Shade Tree
A large tree whose primary role is to provide shade in the surrounding environment due to its spreading canopy and crown, where it may give shelter from sunlight in the heat of the summer for people or buildings.

Streetscape
Generally, the streetscape refers to the character of the street, or how elements of the street form a cohesive environment.

Size
The dimensions in height and width of a building or its face.

Usable Open Space
Outdoor landscaped areas designed to meet the needs of the anticipated occupants of a property.

Xeriscape
Landscape design requiring little or no irrigation or other maintenance, used in arid regions.



CHARACTER DISTRICT

OLD TOWN RESIDENTIAL

Vision:

The old town residential guidelines intend to communicate the overall goal for preserving this special community in Berthoud. The architecture and environment of Berthoud Old Town area create a unique neighborhood. The architecture of the area demonstrates a wide combination of elements, styles, and motifs, that harmonize to create a neighborhood character special to the community. It is this variety, and the mature trees which cover the neighborhood that combine to create the distinctive character of the area.
The design guidelines contained in this book are for your use when planning changes within the old town area. The guidelines are intended to be used as an aid to appropriate design and not as a checklist of items for compliance.
Applicable Zoning Districts include: R1 & R2.

Goals:

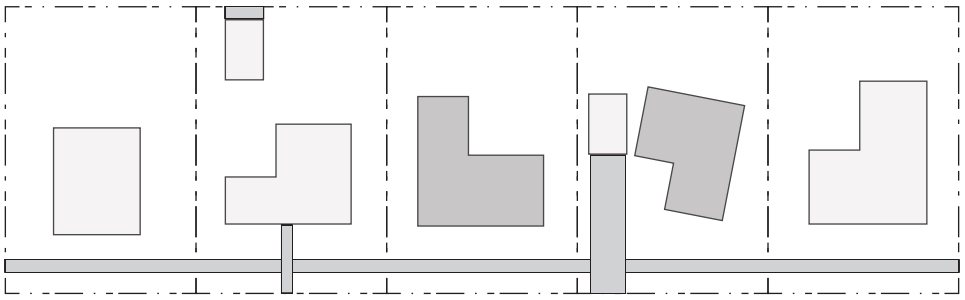
- Maintain the individualism and tradition within residential building types and uses
- Minimize visual impacts of parking from the street
- Maintain the alignment of primary entrances and encourage front porches along the street
- Maintain the traditional two story scale and varied height buildings along each block

Focus Areas:

Orientation and Site
Front Porches & Entry Areas
Scale and Massing
Materials
Roof Design
Additions and New Construction
Facade & Fenestration
Alleys and Accessways
Garage & Accessory Structures
Fencing & Landscaping

Orientation and Site:

1. New structures and additions should be compatible with the site arrangement, setback distance and orientation of neighboring houses to reinforce the existing character of the street.
2. The front of the house should face the public street, with the front entry readily visible and identifiable.
3. Front entry porches/walks are encouraged to connect to existing sidewalks.
4. Accessory buildings such as sheds and garages, and driveways should be located at the rear of the lot and accessible from alley. Adding them between existing buildings interrupts the rhythm of the spacing.
5. Accessory buildings should generally be small in scale and mass and simply detailed. They should appear secondary in importance to the primary structure.
6. When possible, orient building to maximize passive solar opportunities for solar access to windows.



Correct building orientation, sidewalk connection and alley garage access

Building not oriented correctly, no sidewalk connection, and garage is accessed from the street frontage.

Front Porches and Entry areas:

1. Front porches are preferred in all new construction and additions.
2. Maintain the traditional approach to the house from the street front. When desirable for reasons of internal design and when the entry facing the street is still maintained,other entry points may be considered.
3. Enclosing porches is not preferred. If necessary, care should be taken in the design of the enclosure to maintain the sense of transparency and separation from the structure of the house.
4. When open areas exist below porch floors, they should be skirted with open lattice or dense shrubbery.



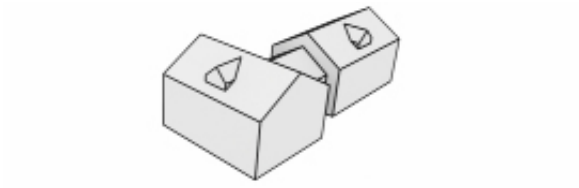
Porch enclosure maintains transparency and visibility as separate structure from the house.



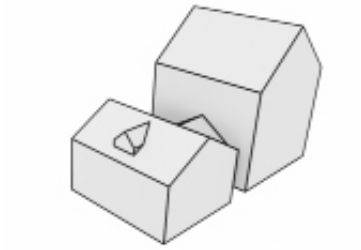
Solid walls should not be added to porches where none exist.

Scale and Massing:

1. Any addition to a building should preserve the existing symmetry or asymmetry. Place additions at the rear of the building or set it back from the front to minimize the visual impacts.
2. The vertical or horizontal proportion of an existing building's mass should be preserved.
3. Provide opportunities for craftsmanship, ornament, proportions, and decoration that are consistent with regional historic archetypes.



Addition is placed in the rear and of a scale and massing appropriate to the existing building.



Addition is inappropriately out of scale with the existing building, thereby detracting from the historic character.

Materials:

1. For additions or repairs, use materials similar in type and scale to those of the existing building.
2. Where modern materials and technologies are used, historic proportions and finishes should be matched or emulated.
3. Finish new materials to match the existing ones.
4. Material colors should not be bright or garish. A single body color with a brighter and/or lighter accent color is preferred.
5. Do not use synthetic materials, such as aluminum, vinyl or panelized brick as replacements for primary building materials.
6. Do not cover original building materials with new materials. If possible, remove coverings that may have been installed previously.
7. Select building materials that convey a sense of permanence. Select materials that are quality, durable, and when possible, minimize embodied carbon. Acceptable materials include:
   - Brick
   - Stucco
   - Architectural metal panel
   - Lap or T&G siding
   - Board and Batten
   - Cedar shake or shingles
   - Fiber cement siding or panels



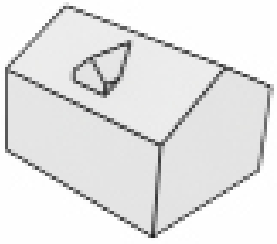
Appropriate preservation and replacement of original material appearance



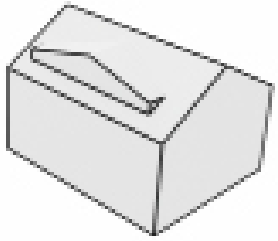
Avoid covering structure with new material incompatible with original

Roof Design:

1. Any alterations to roof lines should be sensitive to the form, pitch and symmetry of the existing roof. The existing roof form, pitch, and material should be used for any additions.
2. Additions should match the roofing materials of the original structure, except in cases where the new roof is a very minor element to the overall design, such as roofing over a new bay window or entry vestibule.
3. The size and scale of dormer(s) should be compatible with the size and scale of the existing or new building.
4. Minimize the visual impacts of skylights and other rooftop devices such as swamp coolers and electronic receiving devices.
5. Rooflines on additions should generally be lower than and secondary to the roof line of the original house.
6. New construction should utilize a roof form found in neighborhood.
7. When possible, maintain or provide south facing roof area to maximize opportunities for solar panels.



Dormer is centered and located below the roof ridge



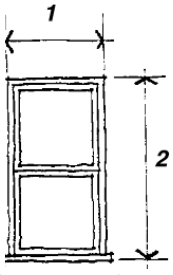
Gable is inappropriate in scale and changes the architectural character

Additions and New Construction:

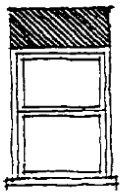
1. Major renovation or the addition of a full or partial story that affects the character of a historic structure is not appropriate. An addition to the rear, or in some cases to the side, of a historic structure is preferable to raising the height of the original building.
2. New additions should be designed and constructed so that the character-defining features of the historic building are not radically changed, obscured, damaged, or destroyed.
3. New design and construction should be differentiated from older portions of a building; however, the addition should respect the existing roof forms, building scale, and massing
4. New construction should be in the character of the buildings and streetscape surrounding it.
5. Building elevations visible from streets and alleys need the greatest sensitivity. Front porches are an important visual element and should be incorporated into new construction.
6. New construction should not imitate historic buildings, but should be an expression of its own time. Contemporary expression of traditional architectural elements is encouraged and simplicity is preferred.
7. The mass and scale of new construction should respect neighboring buildings and the streetscape as a whole. Site layout, porch size and placement, entry level and location, roof line, and door and window sizes and patterns should harmonize with the neighborhood.

Facade & Fenestration:

1. Windows should maintain the existing character of a structure in relation to their size; frame material; method of operation; and divided or single panes.
2. The arrangement of windows on a facade facing the road should generally align with each other in a regular pattern or readily apparent organization.
3. New construction, whether a completely new building or an addition, should reflect the window patterns of the district. Openings should indicate floor levels, and should not occur between floors. Symmetry or asymmetry of openings should be maintained.
4. When replacing windows, use materials, sash, and muntins that appear similar to the original.
5. Casement windows are generally inappropriate in the old town district. When used, casements should be of similar proportions to historic windows.
6. Windows and Doors should be:
   - Consistent with the overall building style and form.
   - Made of quality materials consistent with building.
   - Provide sufficient glazing area for sunlight.
   - Provide natural ventilation with standard operating styles consistent with the home style.
   - Have flashing and trim consistent with quality construction standards.
   - Energy efficient windows and doors are encouraged (low U-factor).



Existing opening and sash proportion is kept



Opening reduced in size

Alleys and Accessways:

1. The use of alleys to provide access to the rear of properties should be preserved. Driveway access from alleys are encouraged when possible to avoid curb cuts on street frontage.
2. Efforts should be made to protect the variety of shape, size and alignment of buildings along the alleys. Alleys should maintain a human scale and be sensitive to pedestrians.
3. Dumpsters should be screened from alley view by landscaping or a permanent enclosure.
4. Detached garages located towards the rear of the lot and accessible from the alley are encouraged. If driveway from the street is necessary, consider wheel well drive with planting to soften the visual impact from the pedestrian way.



Alley access preferred, if unattainable, soften the drive by including wheel well and landscaping

Garages and Accessory Structures:

1. New garages should be sensitive to both the lot size and the size of the house, and should be clearly secondary in importance to the primary structure.
2. Detached garages are encouraged and should be located behind the house and, when possible, accessible by alley.
3. Driveway connections to the streets are not preferred. Wherever possible connect driveways via alley.
4. When adding a garage on the alley, any front curb cut should be vacated and closed.
5. Accessory buildings should be small in scale and mass, and constructed in a manner which is complimentary to the character of the house and alley. Typically, prefabricated sheds are discouraged.



Garage is accessible by alley, located towards rear of lot



Avoid garages from the street, where possible vacate curb cuts and access through alleys

Fencing & Landscaping:

1. Fencing and landscaping shall comply with Town of Berthoud Design Standards, specifically referred to in Berthoud Development Code Fences and Walls and Landscape Design.
2. Maintain the openness between the street and the house. Front yard fences are not traditional and if used should be open in character and appropriate in material, transparency, and height. Wrought iron and wood pickets are traditional fence materials
3. Fences on the rear portion of corner lots should have some degree of transparency and pattern along the public right-of-way unless the fence is set back far enough to avoid a fortress effect.
4. Fences across the front of a house should be low (36" or less). When connecting fencing to a taller side or rear yard fence, a section which gradually increases in height should be included.
5. Long expanses of fences should incorporate openings, changes in materials, texture, and/or landscaping. Avoid materials such as chain link, wrought iron spears, and barbed wire.
6. The finished side of the fence should face toward the street or sidewalk.
7. Retain mature and healthy vegetation, most importantly, mature trees, when developing the site.
8. Select drought tolerant, native landscaping to limit irrigation needs to conserve water, reduce stormwater runoff, and increase the capacity for groundwater recharge.
9. Limit the use of privacy plantings such as hedges, and set them back from the property line to avoid overgrowth into the public sidewalks.



Low, open picket fencing along the public sidewalk



Long expanse of fence directly adjacent to public sidewalk

Glossary



ALIGNMENT



BALUSTERS



BELT COURSE



BRACKET



CLAPBOARD

The terms and images below are defined for the **Old Town Residential** design guidelines only.

Alignment
The symmetrical arrangement of objects.

Alteration
Any act or process, except repair and light construction that changes one or more of the architectural features of a structure or site, including, but not limited to, the erection, construction, reconstruction, relocation of, or addition to a structure.

Appropriate
In some cases, a stated action or design choice is defined as being "appropriate" in the text. In such cases, by choosing the design approach referred to as "appropriate", the reader will be in compliance with the Guideline.

Balusters
Small, upright posts that support a railing.

Belt (Band) Course
A horizontal band across or around a buildings exterior composition, can be made with masonry, metal or other siding material.

Bracket
A supporting member for a projecting element or shelf, sometimes in the shape of an inverted L and sometimes as a solid piece or a triangular truss.

Building
Any permanent structure built for the shelter or enclosure of persons, animals, chattels, or property of any kind, which is governed by the following characteristics: is permanently affixed to the land; has one or more floors and a roof; and is bounded by open space, yards, or the lot lines of a lot.

Canopy
A roof like shelter projecting horizontally from a building wall and supported by posts, or other devices anchored to the building wall.

Clapboards
Narrow, horizontal, overlapping wooden boards, usually thicker along the bottom edge, that form the outer skin of the walls of many wood frame buildings. The horizontal lines of the overlaps generally are from four to six inches apart in older houses.

Climate Friendly Planting
Landscape planting that is first and foremost water-wise, and also pollinator friendly, soil amending, shade producing, and resilient.

Glossary
(continued)



CORNICE



MASONRY DETAIL



EAVE



GABLE

Compatible
Performing in harmonious combination with others.

Cornice
The continuous projection at the top of a wall. The top course or molding of a wall when it serves as a crowning member.

Masonry Detail
A projecting or decorative block pattern in masonry, used to form a design feature anywhere on a structure.

Embodied Carbon
The CO2 released during material extraction, manufacture, and transport, combined with construction emissions. Currently, buildings produce about 40% of the world's fossil-fuel carbon-dioxide emissions (CO2). That number can be greatly reduced by limiting the embodied carbon of our building materials.
Carbon can be minimized by focusing on top three worst offenders—concrete, steel, and aluminum, which account for 22% of all embodied CO2. Cutting down on the use of these materials, or using a concrete mix with limited embodied carbon can help reduce CO2 in building construction.

Eave
The underside of a sloping roof projecting beyond the wall of a building.

Facade
Front or principal face of a building, any side of a building that faces a street or other open space.

Fascia
A flat board with a vertical face that forms the trim along the edge of a flat roof, or along the horizontal, or "eaves," sides of a pitched roof. The rain gutter is often mounted on it.

Fenestration
The arrangement of windows and other exterior openings on a building

Gable
The portion, above eave level, of an end wall of a building with a pitched or gambrel roof. In the case of a pitched roof this takes the form of a triangle. The term is also used sometimes to refer to the whole end wall.

Glossary
(continued)



HISTORIC DOOR



HISTORIC STRUCTURE


MASONRY


MUNTIN

Historic District
A geographically definable area of urban or rural character, possessing a significant concentration or continuity of site, building, structures or objects unified by past events or aesthetically by plan or physical development.

Historic Door
A wood door that dates from the period of significance and is an original feature of the building.

Historic Structure
A building that dates from the period of significance.

Historic Window
A window that dates from the period of significance.

In-Kind Replacement
To replace a feature of a building with materials of the same characteristics, such as material, texture, color, etc.

Integrity
A property retains its integrity if a sufficient percentage of the structure dates from the period of significance. The majority of a building's structural system and materials should date from the period of significance and its character-defining features also should remain intact. These may include architectural details, such as dormers and porches, ornamental brackets and moldings and materials, as well as the overall mass and form of the building.

Mass
The physical size and bulk of a structure.

Masonry
Construction materials such as stone, brick, concrete block or tile.

Modillions
Ornamental brackets located beneath a projecting cornice.

Molding
A decorative band or strip of material with a constant profile or section designed to cast interesting shadows. It is generally used in cornices and as trim around window and door openings.

Muntin
A bar member supporting and separating panes of glass in a window or door.

Glossary
(continued)



RECONSTRUCTION



REHABILITATION



RENOVATION

Parapet
An upward extension of a building wall above the roofline, sometimes ornamented and sometimes plain, used to give a building a greater feeling of height or a better sense of proportion.

Preferred
In some cases, the reader is instructed that a certain design approach is "preferred." In such a case, the reader is encouraged to choose the design option at hand, but all of the other approaches may be considered.

Preservation
The act or process of applying measures to sustain the existing form, integrity and materials of a building or structure, and the existing form and vegetative cover of a site. It may include initial stabilization work, where necessary, as well as ongoing maintenance of the historic building materials.

Protection
The act or process of applying measures designed to affect the physical condition of a property by defending or guarding it from deterioration, or to cover or shield the property from danger of injury. In the case of buildings and structures, such treatment is generally of a temporary nature and anticipates future historic preservation treatment; in the case of archaeological sites, the protective measure may be temporary or permanent.

Reconstruction
The act or process of reproducing by new construction the exact form and detail of a vanished building, structure or object, or part thereof, as it appeared at a specific period of time.

Rehabilitation
The act or process of returning a property to a state of utility through repair or alteration which makes possible an efficient contemporary use while preserving those portions or features of the property which are significant to its historical, architectural and cultural value.

Renovation
The act or process of returning a property to a state of utility through repair or alteration which makes possible a contemporary use.

Restoration
The act or process of accurately recovering the form and details of a property and its setting as it appeared at a particular period of time by means of the removal of later work or by the replacement of missing earlier work.

Glossary
(continued)



SIDELIGHT



SIDING



SILL



TRANSOM WINDOW

Scale
The relative size of the building and its elements (such as individual windows or materials) compared to other structures around it and the pedestrian.

Shape
The general outline of a building or its facade.

Sidelight
A usually long fixed sash located beside a door or window; often found in pairs.

Siding
The narrow horizontal or vertical wood boards that form the outer face of the walls in a traditional wood frame house. Horizontal wood siding is also referred to as clapboards. The term "siding" is also more loosely used to describe any material that can be applied to the outside of a building as a finish.

Sill
The lowest horizontal member in a frame or opening for a window or door. Also, the lowest horizontal member in a framed wall or partition.

Size
The dimensions in height and width of a building or its face.

Transom Window
A small window or series of panes above a door, or above a casement or double hung window.

Vernacular
This means that a building does not have details associated with a specific architectural style, but is a simple building with modest detailing and form. Historically, factors often influencing vernacular building were things such as local building materials, local climate and building forms used by successive generations.



CHARACTER DISTRICT

URBAN DOWNTOWN

Vision:

The urban downtown guidelines purpose is to define and maintain the quality and traditional character of the Downtown. Its intent is to strengthen the character of Downtown and define the Downtown core as a pedestrian-oriented small town village and promote the extension of an existing eclectic charm. This guideline will not promote any one particular style, but it will promote preservation, restoration and rehabilitation of old structures so that architectural integrity is maintained, as well as encourage historic precedent to serve as the inspiration for future development. Applicable Zoning Districts include: C1.

Goals:

- To develop attractive street frontage with pedestrian oriented storefronts.
- Promote mixed-use development with ground floor retail and office or residential uses on the upper stories that is scaled in size to fit the adjacent neighborhood
- Encourage a variety of architectural styles that are complementary to the historic precedents set in the Town.
- Maintain the integrity of historic structures by maintaining architectural details and materials that are a part of the historic character.

Focus Areas:

Site Planning
Pedestrian Areas and Parking
Scale and Massing
Architectural Detail
Screening
Landscape
Signage
Lighting

Site Planning:

1. Building setbacks should correspond to the building type and location. Street level of mixed use buildings should have no setback from the pedestrian edge. Residential uses may provide shallow front yard setbacks to allow for landscaped areas.
2. Developments are encouraged to set back ground level building footprints from the property line to allow for outdoor dining areas, patios, plazas and entrances, as long as facade continuity is maintained.
3. Ground level uses should be retail, entertainment, customer services and other uses that generate activity. Large clear windows, articulated entries, awnings and canopies should be used where possible.
4. New development should respect the scale and massing of adjacent historic structures and attempt to create similarities with site placement to remain compatible with their neighbors.
5. Encourage pedestrian connections through larger developments that connect to the street grid and align with key destinations
6. When possible, orient building to maximize passive solar opportunities for solar access to windows.



New construction should respect the historic scale and step down to low density residential zones



Inappropriate transition to historic adjacencies.



Appropriate use of building setback to accommodate amenity area



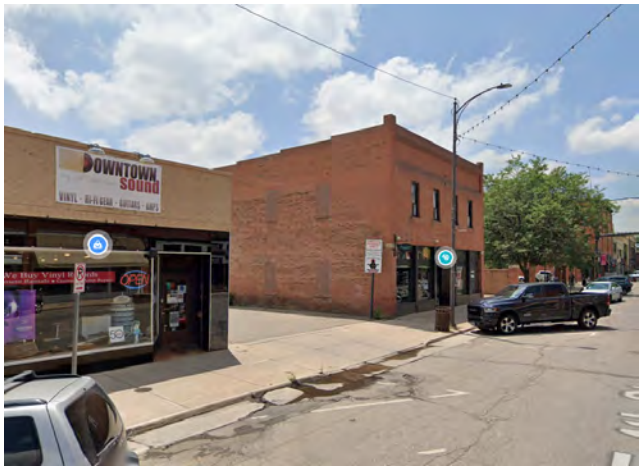
Setback does not engage the pedestrian or provide amenity area to occupants.

Pedestrian Areas and Parking:

1. To maintain consistent and active streetscape and provide a safe pedestrian area, parking should be located behind buildings in an enclosed or landscaped parking area and screened from street view.
2. Large parking lots are discouraged, small parking lots with pedestrian connections between them and to the sidewalk is more compatible with the scale of the Downtown.
3. Parking lots should be screened from view of adjacent properties with landscape per Town of Berthoud Design Standards, specifically referred to in Berthoud Development Code Landscape Design.
4. Vehicular access to a parking area should be provided from an alley or side street, where feasible, not from a commercial street/primary shopping street.



Alley access to building parking



Avoid parking access from a primary street front.

Architectural Form and Scale:

1. Buildings shall comply with Town of Berthoud Design Standards, specifically referred to in Berthoud Development Code Commercial and Industrial Standards, and Mountain Overlay District.
2. New development height and form should be consistent with allowable heights, as well as compatible with adjacent buildings and land uses, particularly in historic districts where adjacent development may be limited by landmark status.
3. Large buildings façades should reflect a module that is compatible to the average historic buildings' pattern along the street. Changes in material, window design, facade height or decorative details are examples of techniques that could be used to reflect historic building widths.
4. Maintain the traditional size of buildings as perceived at ground level. The facade height of any new building should respect traditional proportions of height and width. Floor to floor heights (especially at ground level) should appear similar to buildings within the district.
5. Strong vertical elements such as windows, pilasters, columns, stairs, cornices, lintels, mouldings, dentils, medallions, and towers should be used to express individual modules or units. Fenestration scale should be appropriate to building form and scale. Taller buildings should incorporate a 'Base, Middle, Top' building hierarchy.
6. Principal entrances to buildings or units shall be clearly delineated in building form. Acceptable methods of delineation could include one or more of the following; entryway is covered by a distinctive cap and/or separated building module, the entry is through a porch, entry is defined by sidelights and transom storefront glazing and recessed entry where space is limited along the pedestrian realm.
7. Where practical, gradual transitions in height from adjacent, less intensive land uses, especially residential development, to the maximum height of the new development are desirable. Position the tallest portion of a new structure farthest away from lower density zoned neighbors.
8. Express the distinction in floor heights between street levels and upper levels through detailing, materials and fenestration.
9. Consider the installation of solar panels in all roof design configurations and site design layout.



Facade Modules should reflect traditional spacing of building width on block and use fenestration and brick detailing that reflects historic precedent.



New construction does not continue historic module and fenestration patterns or reflect precedent use of materials.

Architectural Detail:

1. The primary entrance of a building should have a clearly defined, visible entrance with distinguishing features. The addition of a canopy, portico, or other prominent element of the architectural scheme is encouraged.
2. Building materials shall be similar in scale, color, texture and finish to those seen historically in the context. Traditional materials, including brick, stone and wood are preferred. (Wood siding should have a weather protective finish and be maintained for quality).
3. Stucco is discouraged, but could be considered for smaller scale accents on larger buildings.
4. Imitation or synthetic materials, such as aluminum or vinyl siding, imitation brick or imitation stone and plastic, are discouraged
5. No less than 70% of the building material should be full depth masonry. Masonry color should reflect the historic Berthoud style of muted red earth tones.
6. Select materials that have a human scale and will allow people to relate to the size of the building. Examples include stone and brick. Non-modular exterior materials, such as stucco and concrete will need extra detail to reduce building bulk to create human scale.
7. Apply changes in material purposefully and in a manner corresponding to variations in building mass. Changes in material should not occur at outside corners; rather, they shall occur at interior corners, or at a change in horizontal plane such as floor lines and sills.
8. Ground floor commercial frontages should have a minimum of 60% transparent materials, reflective films on glazing is not recommended.
9. Energy efficient windows and doors are encouraged (low U-factor).
10. Select building materials that convey a sense of permanence. Select materials that are quality, durable, and when possible, minimize embodied carbon. Beyond the required primary brick, acceptable secondary materials include:

- architectural metal panel
- wood (protected finish)
- wood look
- stone
- fiber cement
- stucco
- cast concrete



Appropriate use of primary traditional materials creating a base, middle and cap. Ground floor storefront expressed with majority glazing, canopy marking entries and kickplate at display zone.



Inappropriate use of materials, no articulation to continue the downtown module through the design.



Masonry selection is not compatible with historic material and module.

Screening:

1. Screening shall comply with Town of Berthoud Design Standards, specifically referred to in Berthoud Development Code.
2. Service, loading and storage areas should be located out of view of the primary shopping streets, and be screened with fences or landscaping. Where feasible, service access and loading areas should be accessible from alleys or from parking lots located at the rear of buildings.
3. All service and loading areas should be screened from adjacent residential uses by means of architectural treatments, walls, or landscaping.
4. Roof access should be provided from the interior of the building. Exterior roof access ladders are not appropriate.
5. All mechanical equipment must be indicated on the architectural drawings. Roof-mounted mechanical equipment should be concealed from public view on all sides by screening in a manner consistent with the character of the building that **appear as integral elements of the overall building design**.
6. Ground level mechanical equipment shall be screened with landscaping, berms and architectural walls using materials compatible with the building. Fencing materials are not allowed.

Landscape:

1. Landscape shall comply with Town of Berthoud Design Standards, specifically referred to in Berthoud Development Code Landscape Design. Projects are encouraged to exceed code standards.
2. Landscaping must be incorporated in the design of pedestrian areas along the building fronts. Plantings for pedestrian areas should be designed with attention to color, texture and form. Use a variety of trees, shrubs, perennials, and ground covers. Provide seasonal plantings in planters, pots, hanging pots and beds to add color, beauty and variation.
3. Select drought tolerant, native landscaping to limit irrigation needs to conserve water, reduce storm-water runoff, and increase the capacity for groundwater recharge. Climate-friendly plants may be used alongside native species.
4. Use of streetscape elements that define the urban palette are encouraged, including tree grates within sidewalk zone, benches and planters with durable materials, decorative paving to define special areas.
5. Wherever possible, street trees should be provided in front of buildings at each primary commercial street frontage for continuation of tree lawn along streetscape.
6. New developments should provide for opportunities for the installation of art in landscaped areas and in front of buildings.



Appropriate use of landscape elements along the street frontage



Inappropriate lack of pedestrian landscape and hardscape design

Signage:

1. Signage shall comply with Town of Berthoud Design Standards, specifically referred to in Berthoud Development Code Signs.
2. Consider history, context and design when determining whether to retain a historic sign.
3. Use sign materials that are compatible with the architectural character and materials of the building and will not damage historic structures.
4. Use simple typeface and colors that will promote legibility and design integrity. Colors should be consistent and complimentary to the existing downtown vernacular.
5. Window signage should minimize the amount of window covered and preserve transparency at the sidewalk edge.



Appropriate areas of signage at the street front and pedestrian zone.



Lack of signage legible from street and the pedestrian zone.

LIghting:

1. Lighting shall comply with Town of Berthoud Design Standards, specifically referred to in Berthoud Development Code Outdoor Lighting and Dark Sky Standards.
2. Design elements that may function as signage, roof lights, exposed neon lighting, illuminated trim of buildings or building elements, translucent awnings or illumination of translucent awnings, is not encouraged.
3. The style and placement of exterior accent lighting should enhance the building's architectural elements such as entry features, pilasters, columns, and landscaping. Choose lighting that is appropriate to the building and its surroundings in terms of style and scale.
4. Provide lighting for a pedestrian way that is appropriately scaled to walking by using light bollards or pedestrian level mounting.

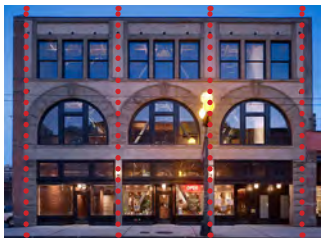
Glossary



ALIGNMENT



AMENITY ZONE



ARCHITECTURAL BAY



ARTICULATION



CANOPY

The terms and images below are defined for the **Urban Commercial** design guidelines only.

Alignment
The arrangement of objects along a straight line.

Amenity Feature
Any item used to enhance the usability and pedestrian experience of a project, including but not limited to: Outdoor seating, public art, recreational facilities, water features, enhanced landscaping, etc.

Amenity Zone
An area along the street curb where trees, planters, furnishings and lighting are arranged. This area is typically a minimum of 5 feet in width with larger areas encouraged where it fits the pedestrian scale.

Arcade
A roofed passageway over a pedestrian walkway.

Architectural Bay
The area between two vertical elements, usually structural supports, that is usually spaced in repetition.

Articulation
A juncture in the face of a building that generally provides relief in an otherwise flat surface.

Belt Course
Referred to in masonry construction as a continuous row of a pattern of masonry around the façade of a building.

Canopy
A roof like shelter projecting horizontally from a building wall and supported by posts, or other devices anchored to the building wall.

Character
A viewer's impression of the elements which make up a particular composition of the landscape, trees, buildings, space, furniture, materials and colors.

Climate Friendly Planting
Landscape planting that is first and foremost water-wise, and also pollinator friendly, soil amending, shade producing, and resilient.

Compatible
Performing in harmonious combination with others.

Glossary
(continued)



COMMERCIAL STREET



CORNICE



FACADE



HARDSCAPE



HUMAN SCALE

Commercial Street
A street where the primary activity is to provide goods and services to the public. An area of shops, stores, service businesses and offices.

Cornice
The continuous projection at the top of a wall. The top course or molding of a wall when it serves as a crowning member.

Embodied Carbon
The CO2 released during material extraction, manufacture, and transport, combined with construction emissions. Currently, buildings produce about 40% of the world's fossil-fuel carbon-dioxide emissions (CO2). That number can be greatly reduced by limiting the embodied carbon of our building materials.
Carbon can be minimized by focusing on top three worst offenders—concrete, steel, and aluminum, which account for 22% of all embodied CO2. Cutting down on the use of these materials, or using a concrete mix with limited embodied carbon, can help reduce CO2 in building construction.

Fascia
A flat board with a vertical face that forms the trim along the edge of a flat roof, or along the horizontal, or "eaves," sides of a pitched roof. The rain gutter is often mounted on it.

Fenestration
The arrangement of windows and other exterior openings on a building.

Form
The overall shape of a structure (i.e., most structures are rectangular in form).

Gable
The portion, above eave level, of an end wall of a building with a pitched or gambrel roof. In the case of a pitched roof this takes the form of a triangle. The term is also used sometimes to refer to the whole end wall.

Hardscape
Exterior ground surface areas which are paved with some impervious material.

Hierarchy
The articulation of the importance or significance of a form or space by its size, shape, or placement relative to the other forms and spaces of the organization.

Historic Structure/building
A building that dates from the period of significance.

Human Scale
Proportions of elements that relate to the size of a human body.

Glossary
(continued)



MASONRY



MIXED USE



MODULE



MOLDING



PILASTER

Kickplate
Found beneath the display window. Sometimes called bulk-head panel.

Mass
The physical size and bulk of a structure.

Masonry
Construction materials such as stone, brick, concrete block or tile.

Mixed-Use
A development consisting of one (1) or more principal buildings containing, either individually or collectively, both residential and nonresidential principal uses.

Module
The appearance of a single facade plane, despite being part of a larger building. One large building can incorporate several building modules.

Molding
A decorative band or strip of material with a constant pro-file or section designed to cast interesting shadows. It is generally used in cornices and as trim around window and door openings.

Muntin
A bar member supporting and separating panes of glass in a window or door.

Orientation
Generally, orientation refers to the manner in which a building relates to the street. The entrance to the building plays a large role in the orientation of a building and should face the street.

Parapet
An upward extension of a building wall above the roofline, sometimes ornamented and sometimes plain, used to give a building a greater feeling of height or a better sense of proportion.

Pediment
A triangular section framed by a horizontal molding on its base and two sloping moldings on each of its sides. Usually used as a crowning member for doors, windows and mantles.

Pilaster
A pillar or column set into a wall as an ornamental relief.

Glossary
(continued)



REVEAL



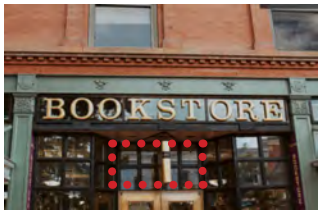
STREETSCAPE



STOREFRONT



SIDELIGHT



TRANSOM WINDOW

Portico
A structure consisting of a roof supported by columns at regular intervals, typically attached as a porch to a building.

Preferred
In some cases, the reader is instructed that a certain design approach is "preferred." In such a case, the reader is encouraged to choose the design option at hand, but all of the other approaches may be considered.

Reveal
A space or an indention in the surface of a building that defines a transition of separate materials or is used as an accent in the field of the same material.

Scale
The relative size of the building and its elements (such as individual windows or materials) compared to other structures around it and the pedestrian.

Shape
The general outline of a building or its facade.

Sidelight
A usually long fixed sash located beside a door or window; often found in pairs.

Storefront
Exterior facade of a commercial building. Includes the following architectural elements: display window, transom, kickplate, entry, cornice molding, and upper story windows.

Streetscape
Generally, the streetscape refers to the character of the street, or how elements of the street form a cohesive environment.

Traditional
Based on or established by the history of the area.

Transom Window
A small window or series of panes above a door, or above a casement or double hung window.

Vernacular
This means that a building does not have details associated with a specific architectural style, but is a simple building with modest detailing and form. Historically, factors often influencing vernacular building were things such as local building materials, local climate and building forms used by successive generations.

TOWN OF BERTHOUD ORDINANCE
NUMBER 1365

AN ORDINANCE AMENDING THE TOWN OF BERTHOUD MOUNTAIN AVENUE CORRIDOR DESIGN AND SIGNAGE PLAN

WHEREAS, the Town of Berthoud is a municipal corporation possessing all powers granted to a statutory town by Title 31 of the Colorado Revised Statutes; and

WHEREAS, the Town replaced Chapter 30 of the Municipal Code through Ordinance 1363 which necessitates an amendment to the Town of Berthoud Mountain Avenue Corridor Design and Signage Plan first adopted in 2020 through Ordinance 1280 to clarify the development and design expectations of development within the Mountain Avenue Overlay District; and

WHEREAS, the Planning Commission, after proper notice, has held a public hearing on October 9, 2025 on this Ordinance providing for a recommendation of approval from the Town Board of Trustees; and

WHEREAS, the Board of Trustees, after proper notice has held a public hearing on this Ordinance providing for the adoption of said code amendments pursuant to C.R.S. Section 31-16-203; and

WHEREAS, the proposed amendments to the Town of Berthoud Mountain Avenue Corridor Design and Signage Plan thereto have been submitted to the Board of Trustees in writing and the Board of Trustees has determined that such amendments thereto should be adopted as herein set forth;

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN BOARD OF TRUSTEES OF THE TOWN OF BERTHOUD, COLORADO:

Section 1. That the Town of Berthoud Mountain Avenue Corridor Design and Signage Plan have been amended in its entirety and replaced as set forth in Exhibit A, attached is hereby adopted;

Section 2. If any section, paragraph, sentence, clause, or phrase of this Ordinance is held to be unconstitutional or invalid for any reason, such decision shall not affect the validity or constitutionality of the remaining portions of this Ordinance.

Section 3. All other Ordinances or portions thereof inconsistent or conflicting with this Ordinance or any portion hereof are hereby repealed to the extent of such inconsistency or conflict.

Section 4. The repeal or modification of any provision of the Municipal Code of the Town of Berthoud by this Ordinance shall not release, extinguish, alter, modify, or change in whole or in part any penalty, forfeiture, or liability, either civil or criminal, which shall have been incurred under such provision, and each provision shall be treated and held as still remaining in force for the purpose of sustaining any and all property actions, suits, proceedings, and prosecutions for the enforcement of the penalty, forfeiture, or liability, as well as for the purpose of sustaining any judgment, decree, or order which can or may be rendered, entered, or made in such actions, suits, proceedings, or prosecutions.

Section 5. The provisions of this ordinance shall take effect thirty days after publication as required by law, and shall apply to all development and construction permitted after such date.

INTRODUCED, READ, AND APPROVED on this 28th day of October, 2025.

TOWN OF BERTHOUD

By _____

William Karspeck, Mayor

ATTEST:

By: _____

Christian Samora, Town Clerk

READ, ADOPTED, AND APPROVED on this 10th day of November, 2025.

TOWN OF BERTHOUD

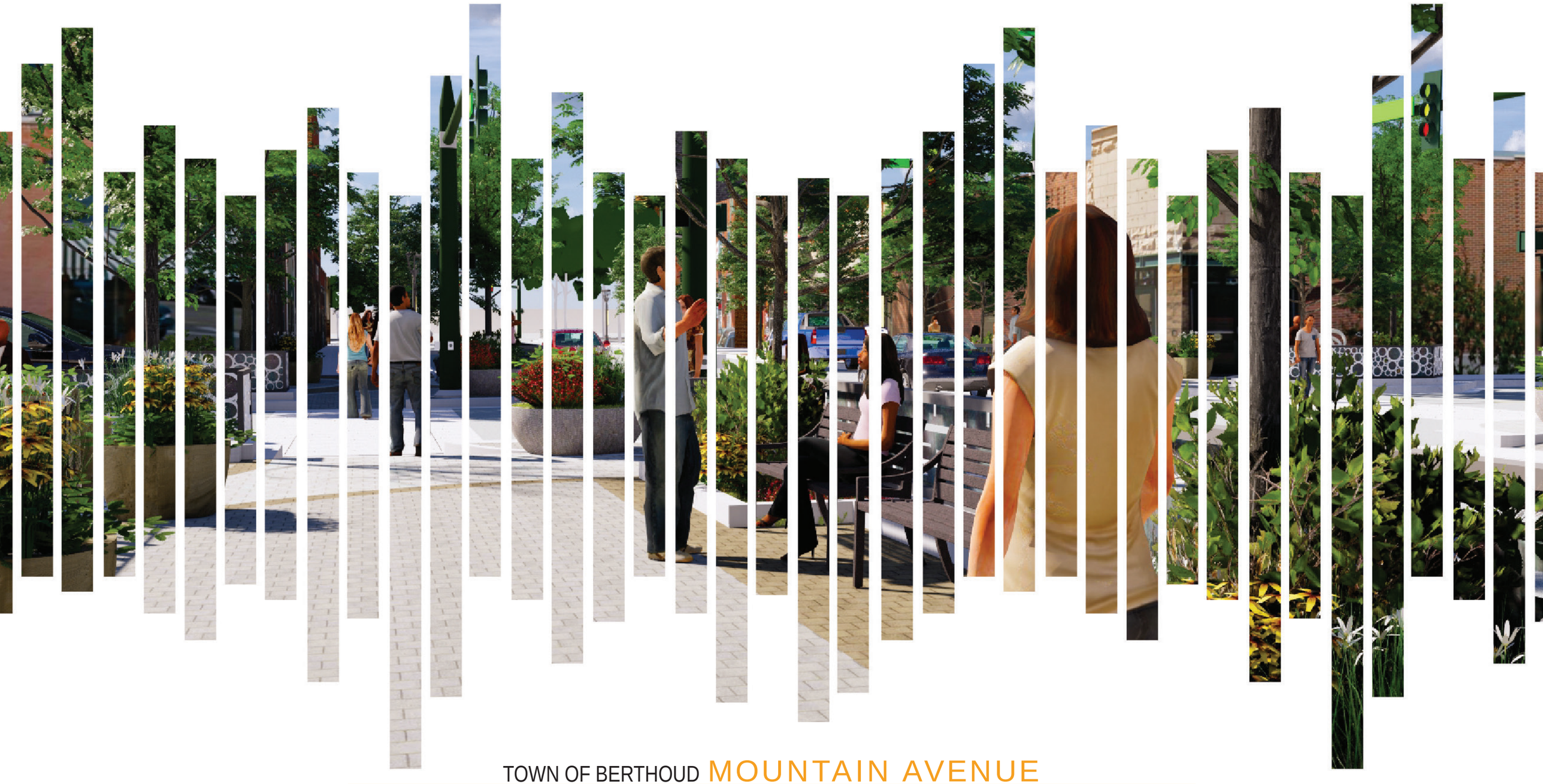
By _____

William Karspeck, Mayor

ATTEST:

By: _____

Christian Samora, Town Clerk



TOWN OF BERTHOUD **MOUNTAIN AVENUE**

CORRIDOR DESIGN & SIGNAGE PLAN UPDATED BY ORDINANCE 1365 ON NOVEMBER 10, 2025


HISTORY
MUSEUM
OPEN
OPEN


The Fernwood Bulletin










A
VINTAGE
SHOPPE

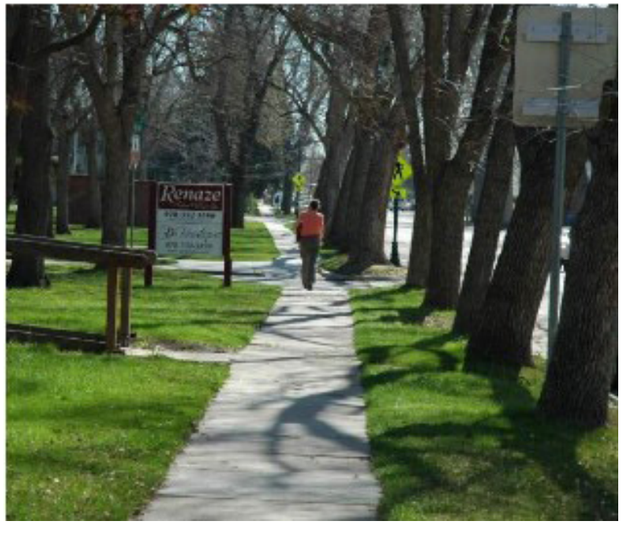

Renaze

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Appendices & Tables

Mountain Avenue Development Criteria by Character District
Areas influenced by this Corridor Plan

Town Project Team

Town Staff

Curt Freese, Community Development Coordinator
Walt Elish, Economic Development Director
Chris Kirk, Town Administrator
Stephanie Brothers, Public Works Director/Engineer

Board of Trustees

William Karspeck, Mayor
Jeff Hindman, Mayor Pro-Tem
Brian Laak
Pete Tomassi
Maureen Dower
Tim Hardy
Paul Alaback

Planning Commission

Scott Banzhaf
Dick Shepard
Jan Dowker
Jeff Butler
Kelsey Byron
Patrick Dillon
Sean Murphy

Consultant Team

BHA Design

Project Lead, Landscape Architect

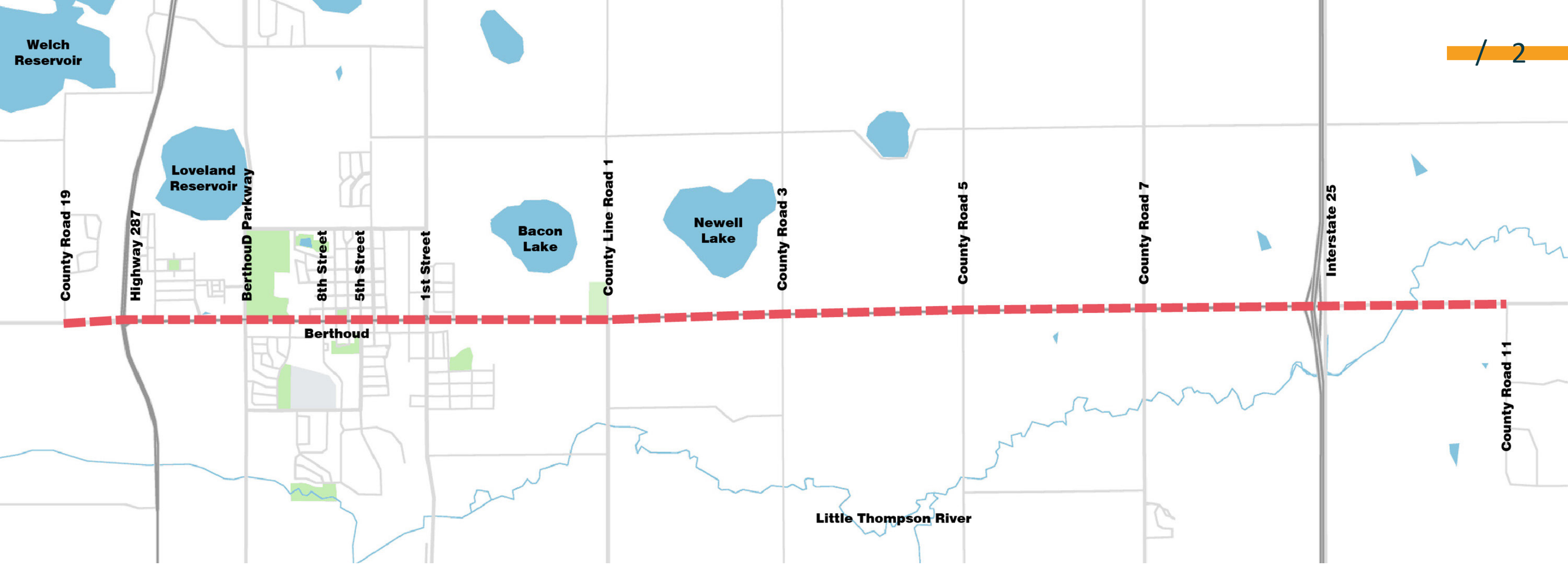
Roger Sherman, Principal
Douglas Elgar, Designer

alm2s

Subconsultant, Architect

Brad Massey, Principal
Kala Bailor, Designer

1.1 Executive Summary



[Above] Extents of the Mountain Avenue Corridor Design and Signage Plan

Overview

Each and every community member, building, business, park, sign, tree, mural, bird feeder, T-Rex, and flowerpots contributes to Berthoud's unique personality and character. Berthoud is a charming, creative and welcoming community and it's easy to understand why the Townspeople are so passionate about protecting it.

Mountain Avenue is "the face" of Berthoud and the experience along Mountain Avenue creates a lasting impression. People experience this street in different ways (in their car, on foot, on their bike, shopping/dining) and each way is equally important to consider in the design. This document explores opportunities for placemaking and other enhancements throughout the corridor. The scope and complexity of the opportunities varies greatly. In some locations, the addition of a few flowerpots is enough. In other locations, community members recognized bigger opportunities. Opportunities such as:

- Reinforcing the Town as "The Garden Spot"
- Enhancing Town Gateways
- Wayfinding for visitors
- Preservation of Mountain Views
- Improved Walkability
- Improved Bike-ability
- Town-wide Trail Connections
- Park Improvements
- Enhanced Public Event Spaces
- Downtown Enhancements
- Strengthened Downtown connection across railroad tracks
- Enhanced Streetscapes
- Appropriate development and redevelopment abutting Mountain Avenue/Hwy 56

The introduction of a comprehensive design vision is necessary to ensure that future development contributes to and enhances the Town and doesn't detract or damage its unique small-town character.

Project Extents

The study area extends roughly 8 miles starting just west of State Highway 287 and continuing east to County Road 11 (east of Interstate 25). The primary focus of the Corridor Design Plan is on properties that front Mountain Avenue within the existing Municipal Boundary. However, some recommendations are made for the agricultural properties between the County Line Road 1 and I-25.

Purpose of the Plan

Growth and change are inevitable, and it can happen slowly or quickly. Either way, it's important to be proactive and take steps to formulate a clear vision for Mountain Avenue's future. The intent of this plan is not to encourage or discourage growth, but to work together with the community to envision the type of growth and change that makes sense along Mountain Avenue/Hwy 56.

The Mountain Avenue Corridor Design Plan focuses on protecting and enhancing the existing historical districts and directing the general character of new development along Mountain Avenue/Hwy 56. The plan defines and emphasizes unique character districts along the corridor and addresses topics related to architecture, site planning, parking, urban design and streetscapes.

This plan is intended to guide development along Mountain Avenue over the next 10 to 15 years. Beyond that it's difficult to predict what the Town's needs and wants may be.

Overall Project Goals

- Identify, protect and enhance Berthoud's unique identity as a small town
- Reflect and celebrate Berthoud's history and culture
- Protect and enhance Berthoud's existing and historic neighborhoods
- Envision distinct and memorable spaces and places that add to Berthoud's charm
- Improve the experience for pedestrians, bicyclists, transit users, and vehicles
- Create conditions where business and innovation can thrive

Plan Components

The Plan includes two separate but related components. The first component is the Corridor Design Plan which analyzes existing conditions, identifies opportunities and illustrates a planning and urban design vision within each character district. The second component is a Signage Plan which provides a vision for Town gateways, wayfinding signs and a conceptual sign location plan.

Public Participation

Town staff and the design team worked together to facilitate a public forum to collect community input. The public participation process was kicked-off with a series of meetings with Town staff, and a half-day tour of the Town with members of Planning Commission and the Board of Trustees. The next step was to gain a better understanding of the community's design preferences, so the design team collected a large number of images and created a series of visual preference boards which were displayed at the first public meeting (see Visual Preference section below for more info). Following the initial public meeting, the design team met with Town staff to discuss community comments and to receive direction. Based on this direction, the design team prepared preliminary design concepts which were shared with the community during the second public meeting. Community input was collected and discussed with Town staff. Preliminary concepts were then presented to the Board of Trustees during a work session to collect additional input. The final design concepts presented in the report are a reflection of the communities preferences and input.

Visual Preference

During the 2 public open houses, the design team presented photographic examples and computer simulated images of urban design environments, architectural alternatives, and other potential design elements that could be implemented in the Corridor Design and Signage Plan. Members of the community expressed their preferences by placing green dots on the images.







[Far Left] Photo from the first Public Open House on October 25th, 2018 at the Berthoud Town Hall where the design team presented 'Visual Preference' boards to get a sense for what the community wanted from this project.

[Middle Left] Notes from the community, comments on what their concerns are about the future of Berthoud

[Left] An example of one of the 'visual preference' boards at the first open house where the public voted on the elements they liked the most.



Design Process and Project Timeline

This report was developed in six phases, including: Research & Discovery, Mapping, Inventory & Analysis, Public Outreach, Preliminary Design, Public Outreach, and Final Design.

In addition, the design team met with Town Staff every other week throughout design process to present ideas and to receive additional input and direction.

[Top] The Mountain Avenue Corridor Design and Signage Plan project timeline



About Berthoud

Nestled at the foot of the Rocky Mountains, Berthoud has been called a hidden gem on the Front Range of Colorado. One Hour from Denver International Airport, one hour from Rocky Mountain National Park, and forty-five minutes from Colorado University, Berthoud's central location marks a convenient and attractive place to live with a wide range of regional amenities.

While much about Berthoud has changed over the years, one thing has not: its charm. Its quirky small-town character is unique to towns on the Front Range today. So much of what makes Berthoud great is a product of its residents who also have a desire to protect its quality and celebrate its colorful history.

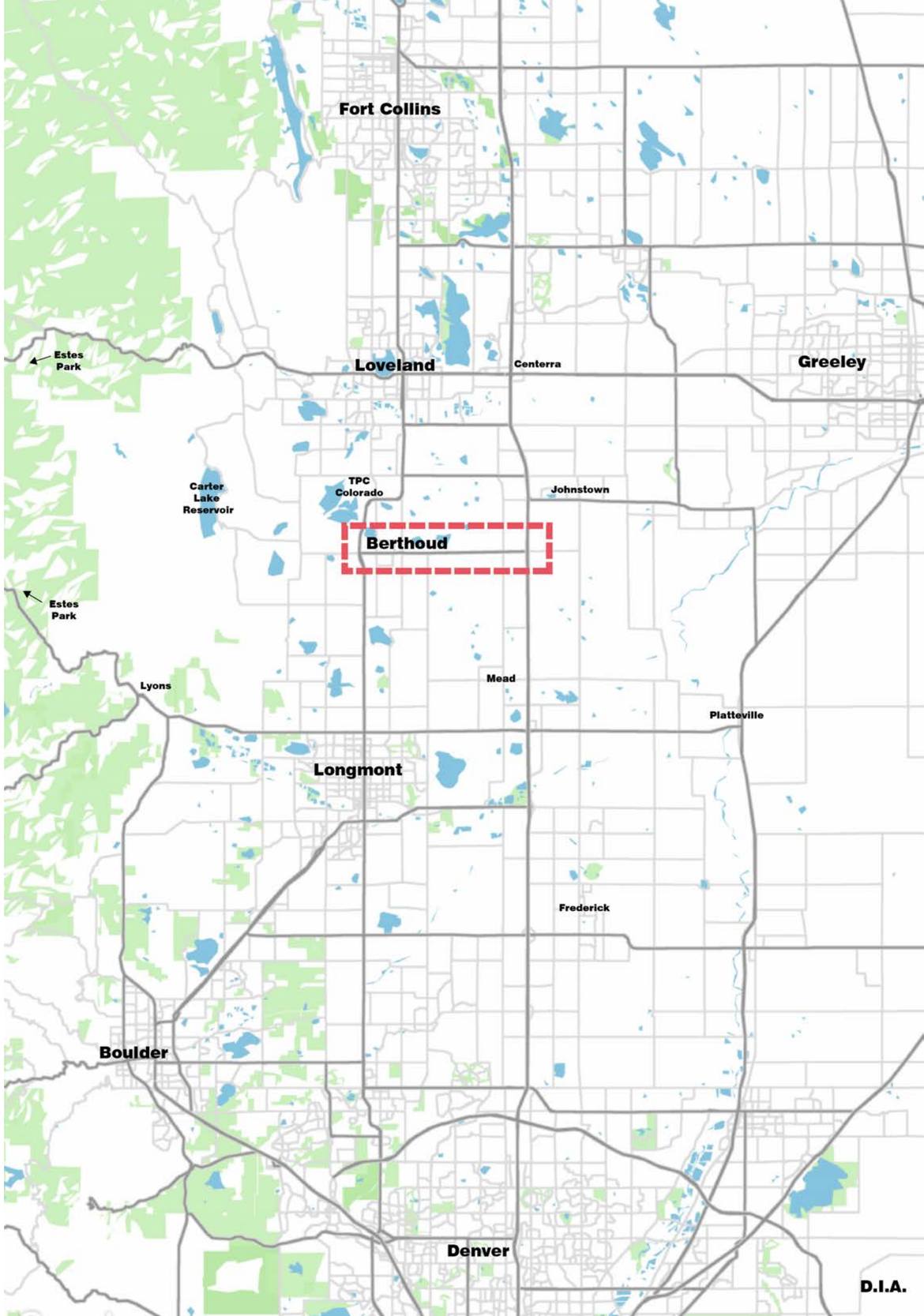
[Right] Regional map of town and cities surrounding Berthoud

[Bottom] Residents gather for music at the Little Thompson Pioneer Museum

[Opposite Top] An inventory of Berthoud's historical designations

[Opposite Bottom Row, Left to Right] Historic Photos: Looking at the southwest corner of 3rd Street and Massachusetts, Looking north on 3rd Street towards the Lovejoy Elevator, The Berthoud School building once sat in the center of present-day Fickel Park



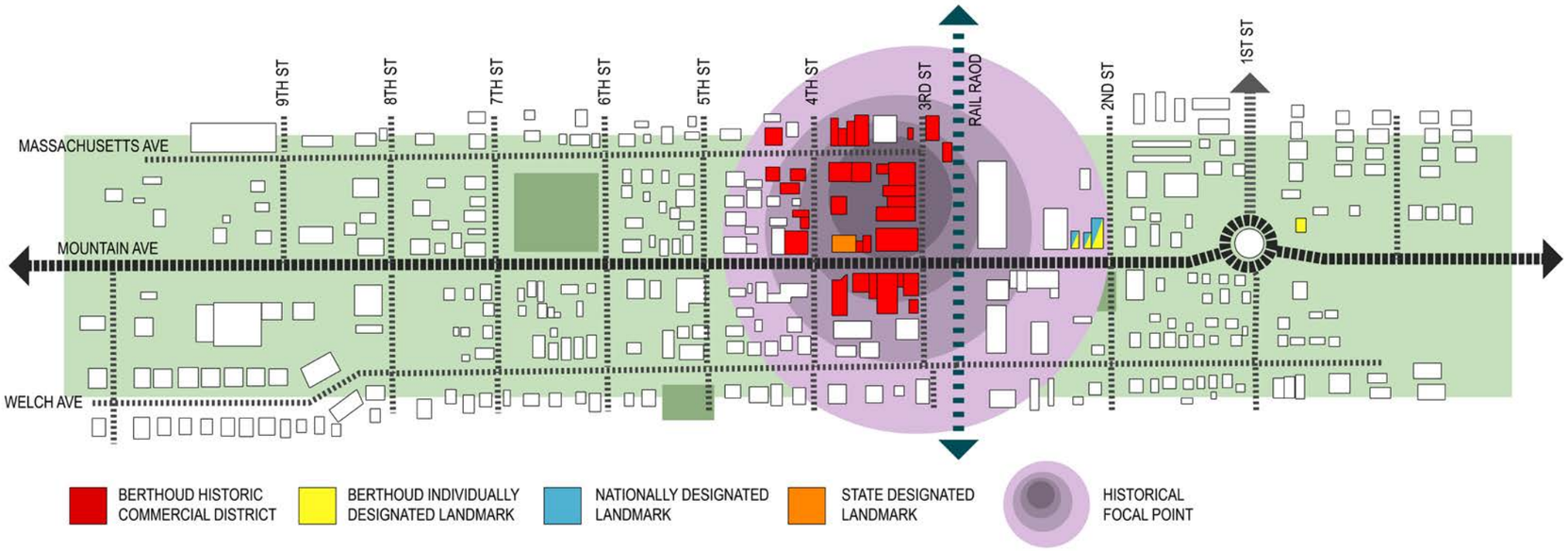


History

Once Berthoud's new location was established after its move from the original site at the bottom of the Little Thompson River Valley in 1883, the town began to grow and businesses were thriving. As a result, Berthoud is home to a wide collection of buildings within an 'Historic Commercial District,' with several individually, state, and nationally designated historic landmarks. One goal of this corridor plan is to honor Berthoud's history by celebrating its historic architecture by showing, accentuating, and enhancing original brick facades. These distinct buildings add to the charming character of the town.

Urban Design History:

1860's- Berthoud established
1883- The town moves 1.6 Kilometers north out of the floodplain
1886- Welch Addition doubles the size of the town
1920's- U.S. Highway 287 connects Berthoud with other towns in northern Colorado
2007- U.S. Highway 287 is diverted to go around Berthoud









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Mapping

Zoning
Existing zoning along Mountain Avenue can be found in the adopted zoning map. Detailed information about Berthoud's existing zoning districts can be found in the Town of Berthoud's Municipal Code. Visit https://www.berthoud.org or the Town Hall building for the most up to date information.

Land Use
Desired and future Land Use in the Town of Berthoud is outlined in the Berthoud Comprehensive Plan, identifying areas of growth and land use to activate specific areas for residential, commercial, and other spaces across the community.
Visit https://www.berthoud.org or the Town Hall building for the most up to date information about land uses and the Berthoud Comprehensive Plan Document.

Overlay District
Upon completion of this report, the Mountain Avenue Corridor and Signage Plan will regulate development in areas governed by the plan. The underlying zoning will remain, however, it will be supplemented and/or superseded by the new Overlay District

Access Control Plan
The State Highway 56 Access Control plan, dated August 2009, was referenced during the design process. Street intersections and future driveway locations represented in this plan are consistent with the access control plan. It's important to note that CDOT plans to update the access control plan in the near future.

Mapping Information
Project mapping was generated using parcel information provided by Larimer and Weld Counties. The parcel maps were overlaid on existing available aerial photography and this information was used to develop the concepts presented in this report. The mapping information is sufficient for conceptual design, but it does not include detailed topography, existing utilities and other information that could influence and impact the design concepts. However, efforts were made to present realistic ideas and concepts.

[Bottom This Page] Map of the parcels subject to the requirements of this Corridor Plan, see apendix for more detailed map

Areas Governed by this Plan
The map below illustrates the properties that are subject to the requirements of this Overlay District Plan.

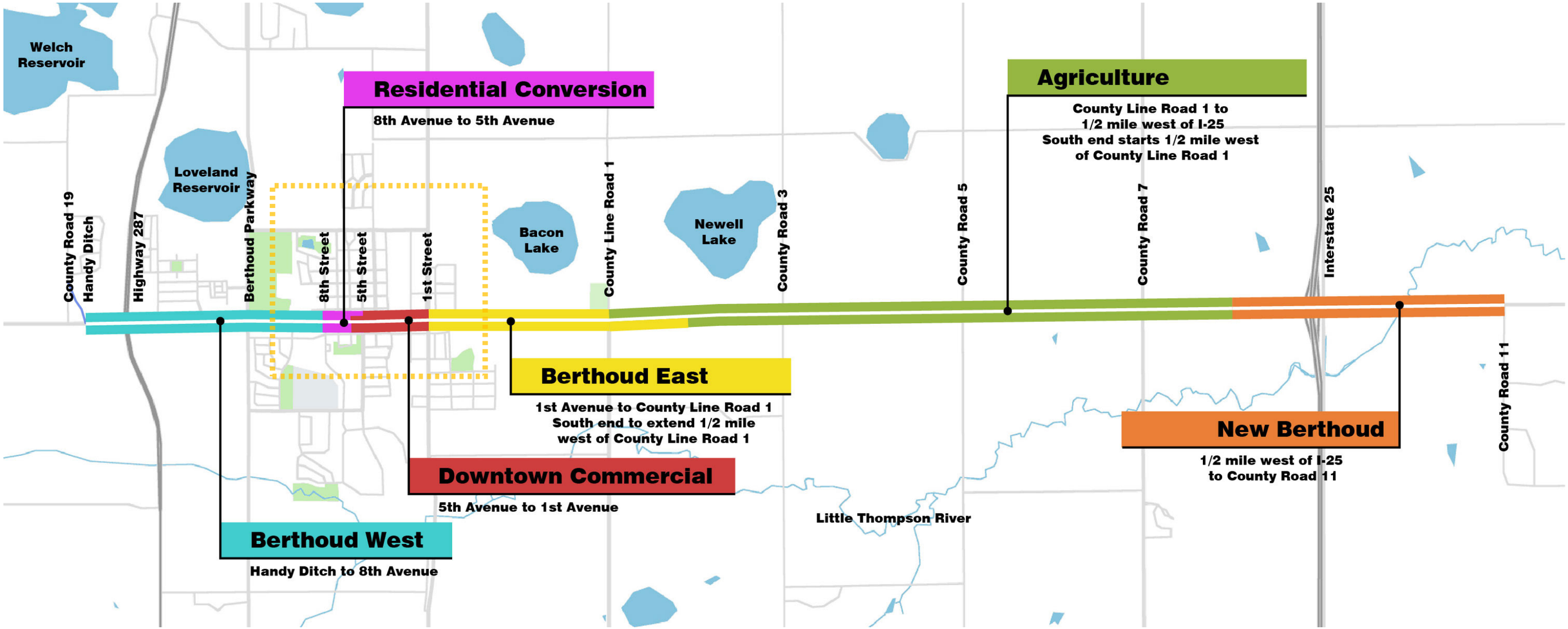


1.2 Character Districts

Character District Introduction

The 7.75 mile long corridor study area passes through several distinct environments, each with a unique and definable character that separate them from other places along the corridor. Traversing these districts is a compelling experience and is a decidedly useful way to know where you are in town. Each district tells a story about Berthoud's history and has a purpose in its future. They each have their function in a complete community and create their own sense of place.

This corridor plan aims to protect and enhance the character of each of these districts by understanding what elements make them unique. These districts are often defined by architecture, land uses, scale, density, streetscapes, and landscaping. The purpose of defining these districts is to preserve their unique attributes and to build upon them.




BIKE LANE
AHEAD

Berthoud West

Berthoud West Character District

This is a largely undeveloped district with great views of the Rocky Mountains, and is in close proximity to downtown and Highway 287. This area is envisioned as a vibrant walkable commercial district with opportunities for shopping, employment and other services. Though this district is in close proximity to the town core, it will build on the unique characteristics of downtown, but not replicate it.

District Extents

This district extends approximately 800 feet west of Hwy 287 and east to 8th Street.

Significant Features

- Views of the Rocky Mountains
- Waggener Farm Park- Future Public Park (56-acre park & 35-acre conservation easement)
- Gateway Park- Existing Private Park

Existing Zoning

General Commercial District (C2), Transition District (T), Planned Unit Development (PUD) (Ludlow Farms PUD, Gateway Park PUD, Safeway at Berthoud Subdivision, Smith Subdivision, Yeager Minor Subdivision)

Preferred Land Uses

Retail, Grocery Store, Restaurants, Commercial, Office, Services, Lodging, and other similar uses. Residential uses on upper floors would also be appropriate within this district.

On-Street Parking

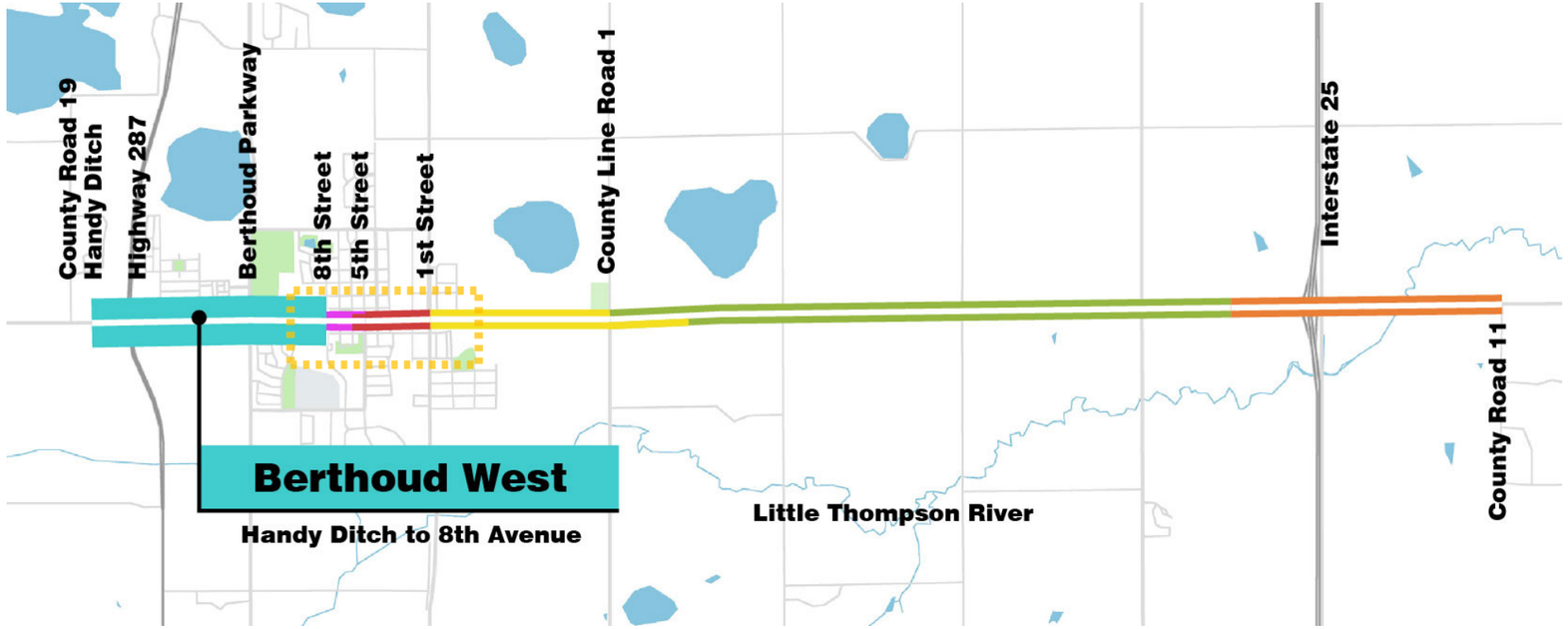
On-street diagonal parking is proposed on Gateway Park Blvd within the proposed village center. On-street parking is not permitted on Mountain Avenue within this district.

Off-Street Parking

Where possible new off-street parking lots should be shared to reduce the overall footprint of paved parking areas, and tucked behind buildings to minimize their visual presence.

Signage

Ground mounted freestanding signs with horizontal massing are preferred. Pole signs should not be permitted in this district. Internally illuminated signs are permitted but the entire sign panel may not be illuminated. Text and logos may be illuminated, but the sign panel and cabinet shall be opaque.



[Top] Map showing the extents of the Berthoud West Character District

[Right Bottom] District opportunities map

[Right Top Row] Varies existing photos around the Berthoud West commercial district



Boat & RV Storage on the corner of Highway 287 and Mountain Avenue



Berthoud Village Shopping Center



Alley and private residence near 8th Street and Mountain Avenue



Private residence across Mountain Avenue from Berthoud Village Shopping Center



Looking south at existing farmland on Mountain Avenue

District Opportunities

- The intersection of Hwy 287 and Mountain Ave represents a significant opportunity highlight the Town's presence and personality.
- The existing median in Mountain Avenue (east of Hwy 287) is fully paved and unattractive. This median should be renovated to include colorful flowers, plantings, and trees to beautify the Town entry.
- The RV storage, liquor store and gas/convenience store located at the southeast corner of Hwy 287 and Mountain are unsightly. These properties should be redeveloped in a way that creates an attractive first impression of the Town.
- A "Village Center" is envisioned along Gateway Park Blvd south of Mountain Avenue which will enliven and activate the district.
- A much-needed Grocery Store and shopping center is illustrated at northeast corner of Hwy 287 and Mountain Ave.
- Community members suggested adding a commercial center and gas station west of Hwy 287 which would be convenient for people heading to Carter Lake and people traveling on Hwy 287.

1. Development opportunity: Commercial center and gas station
2. Intersection presence, Gateway opportunity
3. Development opportunity: Grocery store, shopping center
4. Development Opportunity, typical
5. Development opportunity: Ludlow Farms PUD
6. Development opportunity: Village Center
7. Street Corner improvement, type 1
8. Welch & Massachusetts Avenue Shared Bikeway
9. Gateway Park
10. Waggener Farm

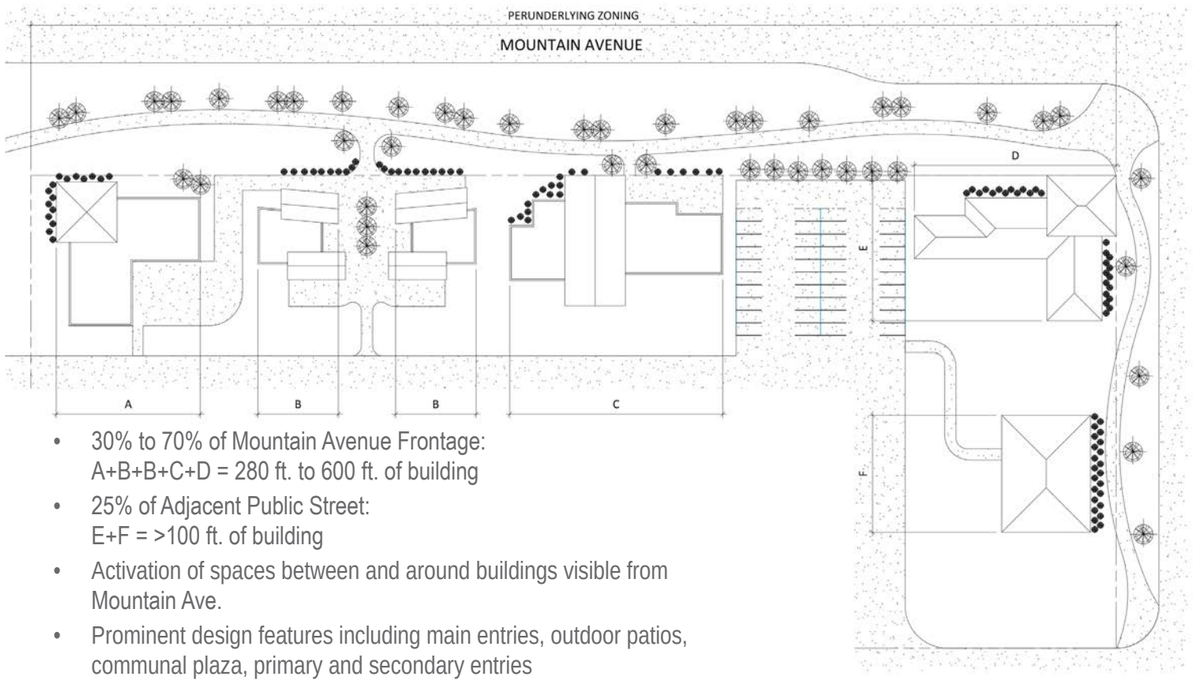
Redevelopment Opportunity
Park
On-street shared bikeway
Existing bike lanes & paths



Architectural Guidelines for Berthoud West District

Traditionally, west Mountain Avenue has served as a transition zone from Highway 287 to the old town residential district and further into downtown Berthoud.

As primarily a commuter route with limited business access, high vehicular speeds have been the norm. Eventually, as development occurs, speed limits will be reduced allowing for a more pleasant experience for bicyclists and pedestrians along Mountain Avenue. Building location and entry orientation will also play a key role in enhancing the patron's experience.



- 30% to 70% of Mountain Avenue Frontage:
  A+B+B+C+D = 280 ft. to 600 ft. of building
- 25% of Adjacent Public Street:
  E+F = >100 ft. of building
- Activation of spaces between and around buildings visible from Mountain Ave.
- Prominent design features including main entries, outdoor patios, communal plaza, primary and secondary entries

Buildings' facades along Mountain Avenue shall extend along a minimum of 30% but not more than 70% of the total property frontage, and be built to the required setback line with minor variations for facade articulation.

Overall Building Location and Placement of Key Features

Configuration and placement of buildings shall give intentional shape and layout to adjacent exterior gathering spaces and pedestrian/bicycle connections, while being site-specific in response to landscape and hardscape features.

"Cookie-cutter" flat-facade buildings that lack articulation and site-specific features will not be allowed.



Group elements such as trash/ recycling enclosures with service/ delivery access and use buildings to screen from street view.

Orient primary and secondary entries towards street and thus pedestrian connections.

Cluster buildings to share exterior gathering spaces and other features.

Building clusters to be address primary street intersections to activate corner.

Clear and direct pedestrian connections from sidewalk along street to entries.

Exterior Activation

Outdoor patios, primary and secondary entries, canopies and other features help “activate” a development. Locating these features so they are readily-visible to and from Mountain Avenue will ensure a strong visual connection.



Integrate 3-dimensional building elements to act as screening for service type accessories including roof- and ground-mounted HVAC equipment, electrical/gas meters, loading docks/ service entries, etc. These service equipment components shall not be visible from the public R.O.W. or from adjacent properties/uses.



Massing and Articulation

A building’s 3-dimensional configuration plays a significant role in determining the impact it will have on the surrounding environment. The proposed building shall be designed to be compatible with other structures in the surrounding vicinity in size, scale and character. Building mass shall be well-proportioned and organized to define various horizontal and vertical elements while clearly expressing the internal function of the building.

Multiple buildings in a common commercial development shall be consistent in architectural form/ detailing, materials, roof styles and colors to achieve a harmonious design vocabulary and continuity within itself.

Large retail buildings shall be broken down into a series of complementary forms with a clearly defined pattern. Blend larger flat roof areas with smaller pitched roof elements that denote key functions such as entries or primary window groupings. Horizontal step backs of the facade shall be significant in relation to the overall length and scale of the building. For instance, a 60’ long building should have 2-3 primary massing elements with at least 4’ to 6’ of grade plane changes (i.e. 8-10% of the overall length). Screening elements for items such as ground-mounted or roof-mounted mechanical equipment shall be integrated into the building design and not appear as an after-thought. Creating large expanses of windows with a branded display wall in close proximity to the glass so that it is readily visible from the exterior is not permitted.







Architectural Guidelines for Berthoud West District

Materials and Colors

The primary building material should be full depth masonry. The masonry color should reflect the historic Berthoud style of muted red earth tones. Use of historic masonry detailing such as articulated lintels, articulated caps, and horizontal articulation lines is required.

The primary building material shall constitute at least 50% of the total wall area; excluding the glazing area of the façade. (Some varieties of historic Berthoud architectural typology could be excepted under planning staff discretion).

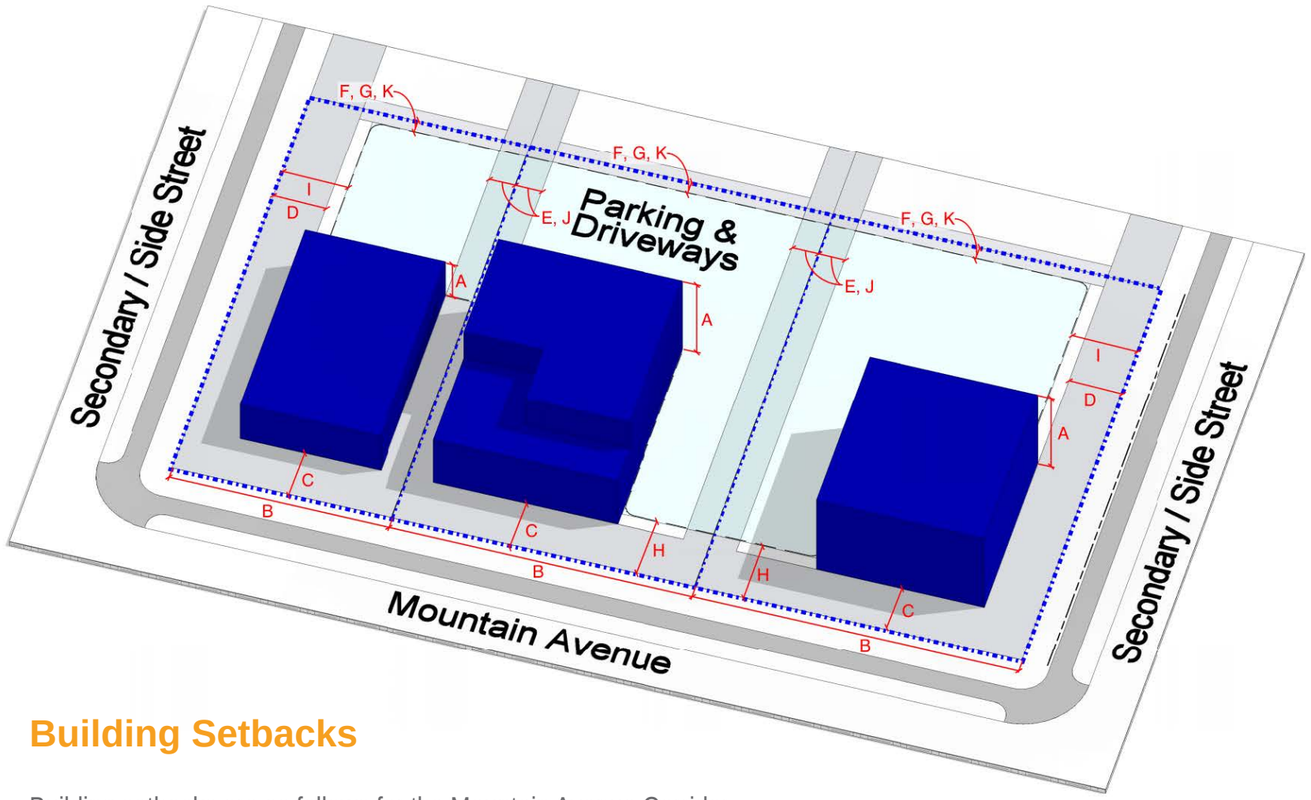
Secondary building materials shall be of high quality, durable products. Refer to the Berthoud Architectural Design Guidelines for architectural compliance options based on Place Type Suburban Commercial.

High-quality brick veneer with large storefront type windows and fixed awnings to differentiate first floor uses from upper levels

Mixed-use buildings are encouraged



Brick is the primary building material with articulated lintels and caps



Building Setbacks

Building setbacks are as follows for the Mountain Avenue Corridor Plan. Refer to the underlying zoning code where indicated.

Mountain Avenue Development Criteria

Description		Berthoud West
	Density and Lot Coverage	Per Underlying Zoning
A	Building Height [5]	Maximum: 3 Stories (40 feet)
B	Minimum Lot Width	Per Underlying Zoning
	Building Orientation	Parallel to Front lot line

Building Setbacks		
C	Mountain Ave / Highway 56 [6,7]	14 ft. min, 20 ft. max
D	Secondary or side street	20 ft. min [8]
E	Side yard (3 stories)	10 ft. min
E	Side yard (2 Stories)	Per Underlying Zoning
E	Side yard (1 Story)	Per Underlying Zoning
F	Rear	Per Underlying Zoning
G	Rear Alley	Per Underlying Zoning

Off-Street Parking and Driveway Setbacks		
H	Mountain Ave / Highway 56 [9]	20 ft min. or 5 ft greater than building setback, whichever is greater
I	Secondary or side street	20 ft. min
J	Side yard	5 ft. min 0 ft. if shared
K	Rear	5 ft. min 0 ft. if shared
	Max parking and driveway frontage [4]	40% of lot frontage

Mountain Avenue ROW Encroachments		
	Outdoor dining areas and display areas	0 ft.
	Awnings	0 ft.
	Balconies	0 ft.
	Bay windows and building projections	0 ft.
	Building eaves	0 ft.
	Patio cover roof	0 ft.

Notes:

[1] The ground floor front facade may be recessed/setback to accommodate outdoor dining and/or outdoor display areas. Where these features are not intended, facades shall have a 0 foot front setback.

[2] A six foot minimum unobstructed clear zone shall be provided within ROW around outdoor dining areas for pedestrian circulation

[3] Balconies, bay windows and other building projections extending in to the public right-of-way shall provide 10 feet min. vertical clearance above the sidewalk elevation or finish grade.

[4] Off-street parking areas and driveways fronting Mountain Ave, Hwy 56 and/or secondary/side streets shall be screened from view from the public right of way. Screening shall be 3' min in height and shall be accomplished with berms, low walls, planting, etc. Within the Downtown Commercial District and the Residential Conversion District screening shall be accomplished with walls and/or decorative metal fences having 75% min opacity. Wall materials shall match materials used on the associated building. Unless approved otherwise, wood fences are not allowed along Mountain Ave in the Downtown Commercial District

[5] Small tower elements and roof forms/parapet walls associated with primary building entries may exceed the maximum building height by 15%.

[6] Permanent features such as steps, ramps, landings, and uncovered porches shall not extend more than 40% into required setback.

[7] Front setbacks abutting Mountain Avenue shall be measured from the ultimate right-of-way line.

[8] Zero foot (0') front setbacks are allowed for buildings having frontage on Gateway Park Blvd located within the proposed Village Center. Setback shall be measured from the ultimate right-of way of Gateway Park Blvd.

[9] Drive thru lanes located between a public street and a building are discouraged. In situations where this condition cannot be avoided, the minimum building setback can be increased by 15 ft, and a 3 ft. high screen wall shall be installed along the length of the drive-thru lane abutting the public right-of-way. In any case, the drive thru window may not be oriented toward Mountain Avenue.

Primary masonry requirement could be adjusted for other historic Berthoud architectural typologies

Minimize long expanses of wall at a single height or in one plane. Vary buildings with recessed or projecting bays that create pedestrian scale space and variety in form.

Apply changes in material purposefully and in a manner corresponding to variations in building mass.

Emphasize building entries though building massing, special architectural features, and changes in the roof line.



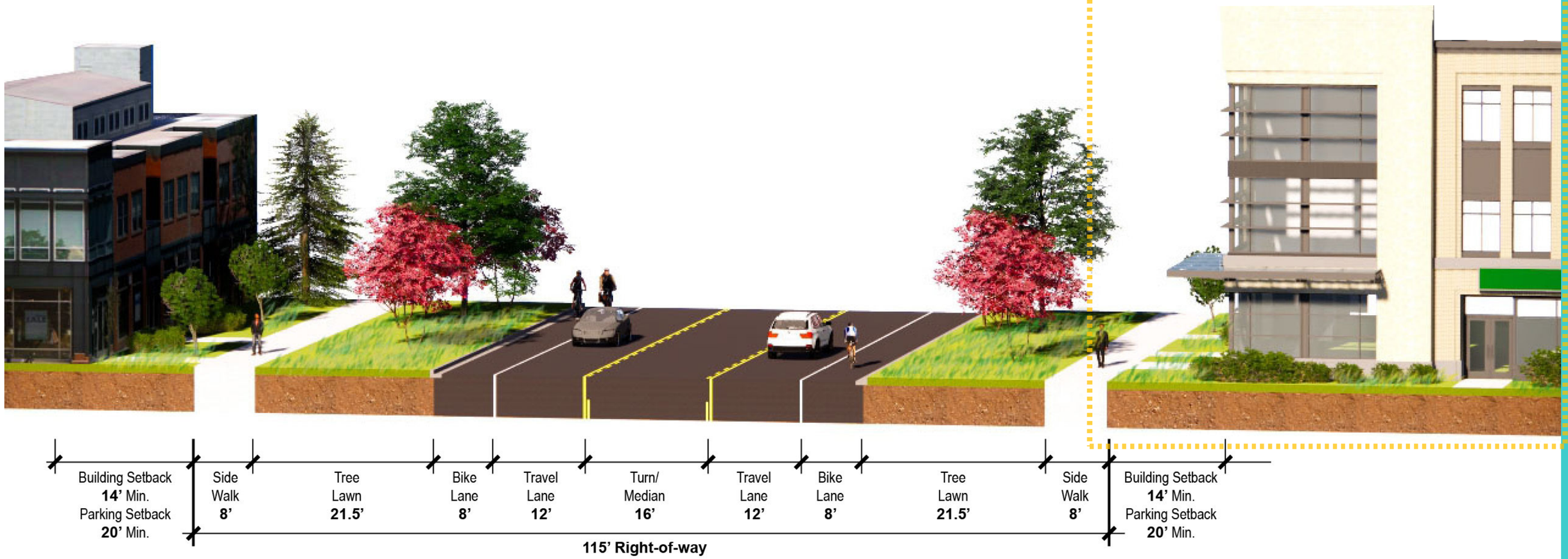


Ultimate Street Cross Section

The ultimate street cross section is consistent with the State Highway 56 Access Control plan. A generous tree lawn and sidewalk enhance the overall aesthetic and pedestrian experience. Continuous on-street dedicated bike lanes are included. A 14-foot minimum building setback leaves enough room for utility easements and is narrow enough to avoid feeling too suburban.

[Bottom] The Berthoud West Ultimate Street Cross Section

[Opposite] A perspective rendering of the corner of Mountain Avenue and Gateway Park Boulevard showing enhanced streetscapes, street corners, and planting strategies



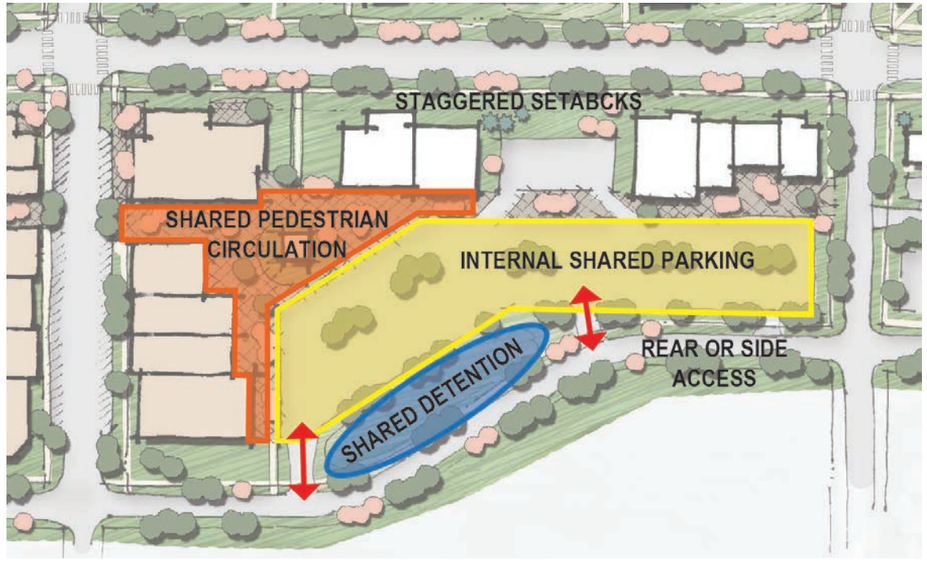
Concept Plan

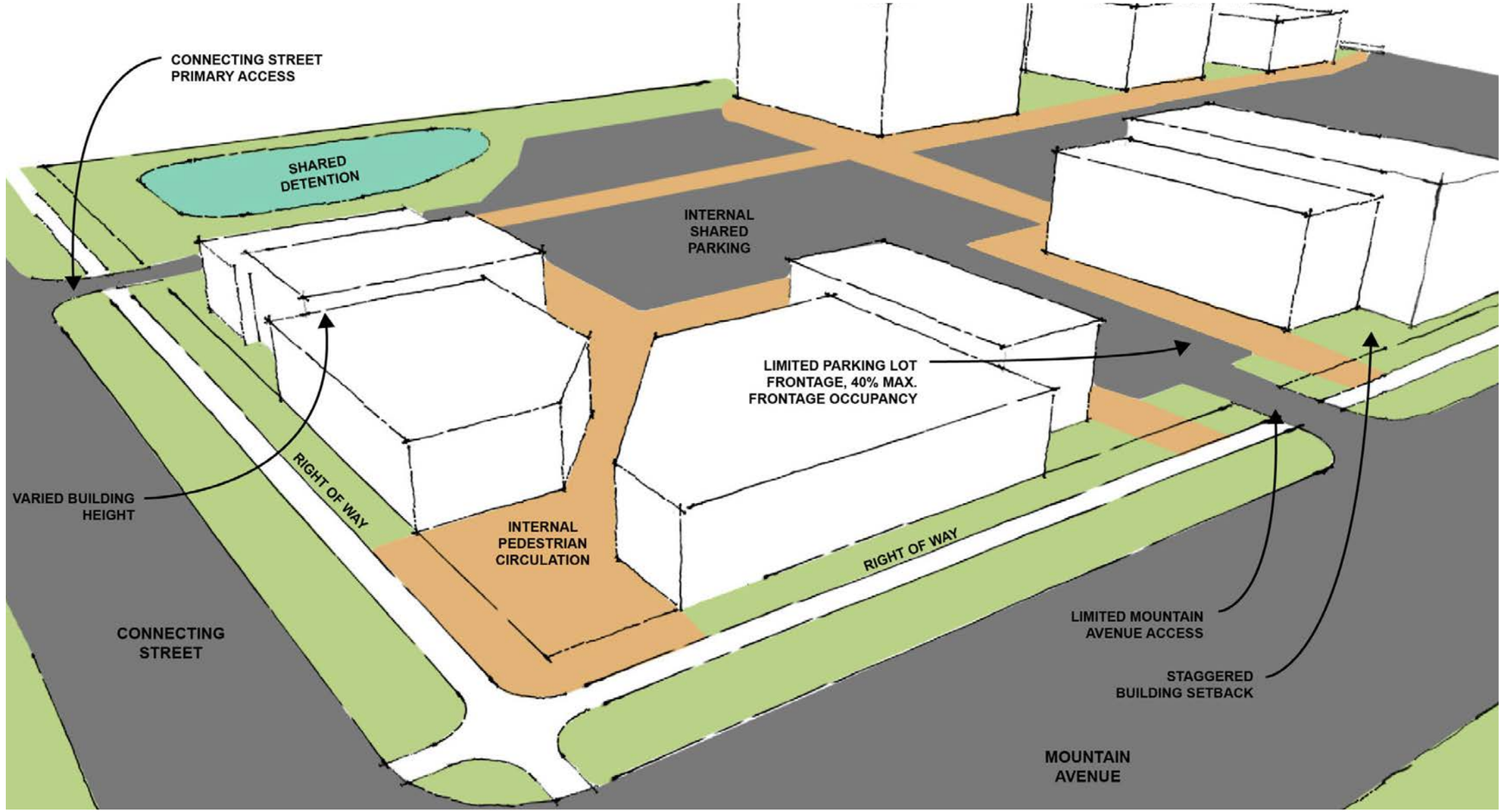
The conceptual plan for this district departs from more traditional site planning principles where each lot has its own parking, detention, pedestrian spaces, and landscaping. Combining and sharing these elements creates a more integrated composition, improves walkability, and improves land use efficiency.

The proposed 'Village Center', located on Gateway Park Boulevard, will become a social center within this district. It could include restaurants, outdoor dining, breweries, shops and other people magnets.









Site Planning Principles

Modern site planning principles include efforts to combine the infrastructure required to develop from building to building or lot to lot. Sharing things like detention, parking, internal pedestrian spaces are great ways to reduce overall costs of projects, reducing the space they require, and making them more efficient and effective.

More aesthetic principals would require variation in building placement by staggering their setbacks as well as include a variation in building heights.

Limited access directly from Mountain Avenue allows for long stretches of uninterrupted streetscapes, improves traffic flow on Mountain Ave, and increases the need for automobile access to developments from cross-streets and back streets.

Parking is necessary but it shouldn't be a dominant feature. To reduce its visual presence on Mountain Avenue, off-street parking should be tucked behind and between buildings. Off-street parking areas shall not occupy more than 40% of the Mountain Avenue frontage.

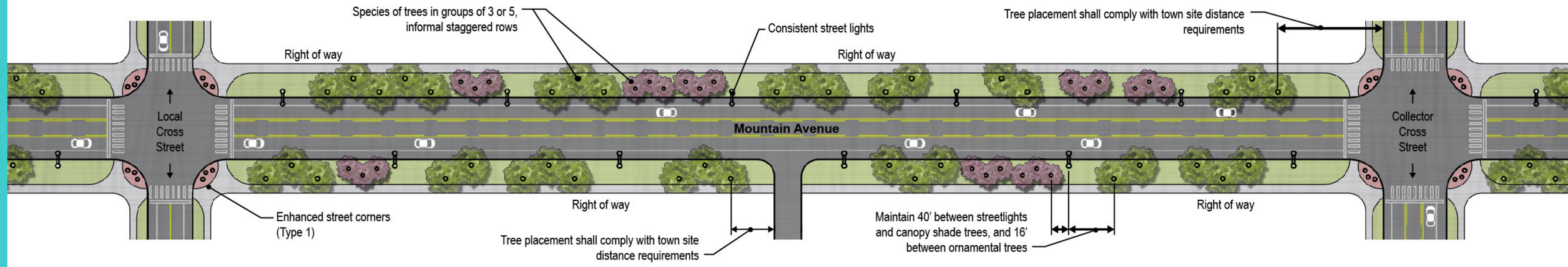
Restaurant and bank drive-thrus shall be oriented away from Mountain Avenue.

[Left] A diagram showing how the site planning principals would be applied on a block corner

[Top Right] A diagram showing a typical block in this district

[Top Left] An aerial of a similiar example of these principals in Boulder at 28th and Arapaho

[Opposite] Berthoud West Character District Concept Plan





Streetscape

The wider right of way and generous tree lawn in this district affords some opportunity to create a unique character that is distinctly different than the downtown. A mixture of large canopy shade trees and flowering ornamental trees placed in informal groupings will give this district some individuality. Over time, the mature trees will reach out to Hwy 287 and invite people to come into Berthoud, and the springtime flowers should be magnificent. The continued use of flowerpots on the street corners is also recommended to building on the Garden Spot theme.

Village Center

A 'Village Center' is envisioned on Gateway Park Boulevard south of Mountain Avenue. This area could include restaurants, outdoor dining, root top decks, breweries, shops, and more. The buildings would be similar in scale to Downtown Berthoud, but the architecture and site amenities should have a modern twist.

[Top] Site plan diagram showing a streetscape configuration unique to this district

[Left] A perspective rendering on the sidewalk in this character district showing a 3 story building at a 14' setback from right of way, and a large tree lawn

[Right] A perspective rendering of the 'Village Center'




BOB TURNER CLASSIC
5K RUN/WALK @ TURNER MIDDLE SCHOOL
FIRST SATURDAY IN MAY

Residential Conversion

Residential Conversion Character District

This district is characterized by charming older homes occupied by businesses and commercial uses. Majestic street trees create a seemingly continuous canopy over Mountain Avenue making it obvious that this Town has a long history. Green spaces surrounding the homes and detached walks with tree lawns create a very welcoming and walkable neighborhood. Who wouldn't want to work here?

District Extents

The Residential Conversion character district extends from 8th to 7th Street on the south side of Mountain. The District extends from 8th Street east to the alley between 6th and 5th Street on the north side of Mountain.

Existing Zoning

Most of the properties within this district are included in the Neighborhood Commercial (C1) zone district. Fickle Park is the exception and is included in the Limited Multi-Family (R2) zone district.

Significant Features:

Fickle Park is the centerpiece of this district and is cherished by the community. The park provides a wonderful setting for the community to gather, recreate, and relax.

Preferred Land Uses

Commercial/Office, Professional Services, Lodging, Live/Work, Single Family and Single Family Attached Residential

On-Street Parking

Parallel parking exists on both sides of Mountain Avenue and will remain.

Off-Street Parking

Existing off-street parking areas are small, and most are accessed from the alleys on the rear side of the lots. This concept should be continued.

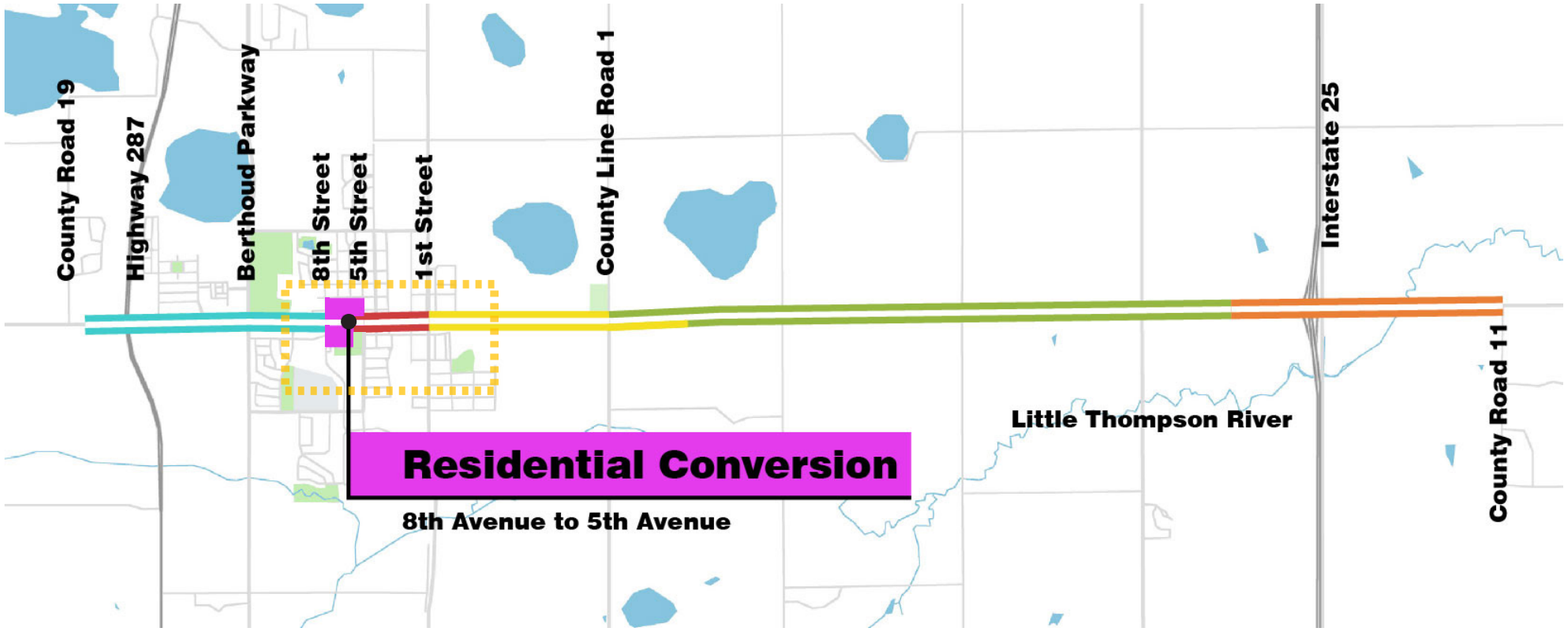
Signage

The type, scale and style of signage should be designed to complement the residential character of this district. The use of internally illuminated signs should be restricted. If signs are illuminated, external down-lighting should be provided. Building mounted, and freestanding ground mounted signs are preferred. Pole signs should not be permitted in this district.

Unique street name signs would also add distinction to this historic district.

Goals

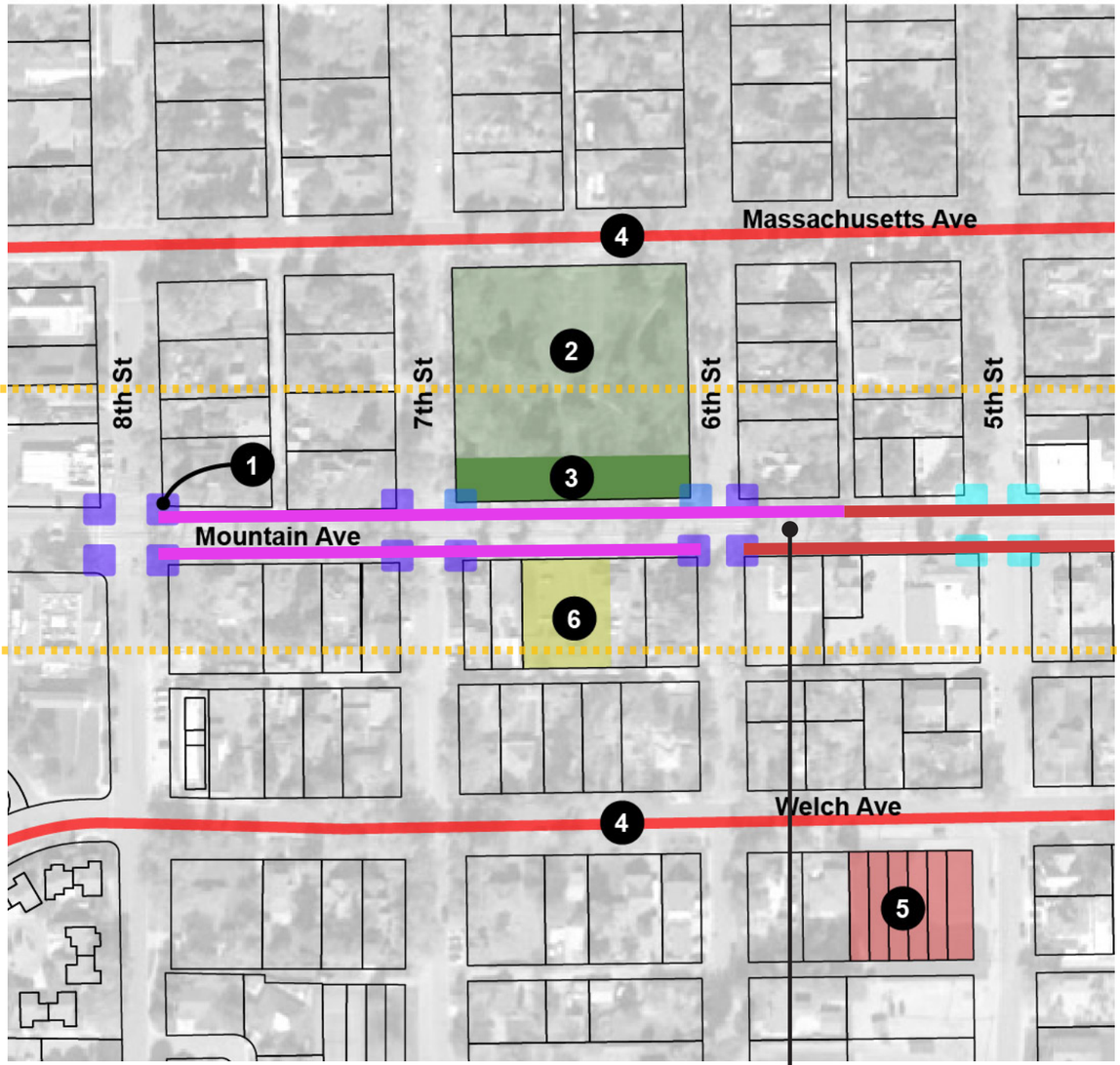
- Preserve and enhance the charming aspects of this district
- Create a design strategy before redevelopment occurs
- Improve Fickle Park



[Top] Map showing the extents of the Berthoud West Character District

[Right] A map of the district showing the various improvement opportunities

1. Street Corner Improvements, Types 1, 2, & 3
2. Fickel Park Enhancements
3. Fickel Sculpture Enhancements
4. Welch & Massachusetts Avenue Shared Bikeway
5. Downtown Parking Opportunity
6. 'Pocket' Neighborhood

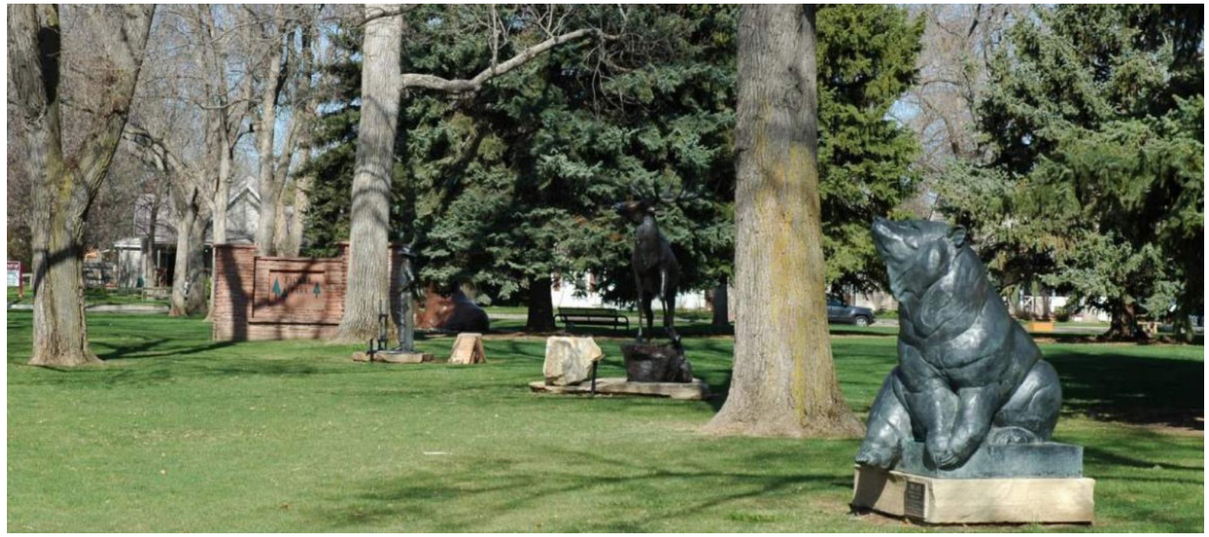


Residential Conversion extends to 6th street on the south of Mtn Ave and to the alley between 5th and 6th on the north side of Mtn Ave

Improvement Opportunities

Several opportunities have been identified in the Residential Conversion district to enhance the overall aesthetic and address some of the challenges associated with this district. The overall intent is to first identify what is significant, historical, or otherwise aesthetically important, and enhance those features. Second, identify unsightly, antiquated, inefficient, or ineffective elements, and improve them. These improvements and enhancements include streetscapes, public spaces, and architecture.

- This district is well-suited for small businesses, live/work units and other similar uses that are compatible with the surrounding residential areas.
- Fickle Park is the centerpiece of this district and is cherished by the community. However, the park is underutilized due to the lack of open areas, and limited park amenities. Refer to the Fickle Park concept plan and illustration in this section
- Street corners and sidewalks should be improved to comply with accessibility requirements, and flowerpots should be placed at the street corners to add more color and interest to the streetscape.
- Most of the properties within this district are well cared for, but some are underutilized, and general upkeep could be improved. Facade renovations, landscape improvements and redevelopment could enhance the overall appearance of this district.
- Low picket fences around "front yards" could add another layer of visual interest and are encouraged. Private front yard gardens, art installations, flowerpots and flower boxes are also encouraged.
- The former motel (currently apartments) on the south side of Mountain Avenue located between 6th and 7th Street could be reimagined as a Bungalow Park or Pocket Neighborhood.
- The small ball diamond at the southwest corner of Welch and 5th could be redeveloped as a public off-street parking lot to address increased parking demand, if/when needed
- The Town should consider creating a Business Improvement District that could be used to fund improvements to building facades, streetscapes, and features that would benefit the community.



Architectural Guidelines for Residential Conversion District

The three-block long section of Mountain Avenue between 5th Street and 8th Street (one block on each side of Fickel Park) has seen many of its existing single-family homes fronting the street converted to commercial/ retail or in-home business use. It is anticipated that this trend will continue with potential pressure to expand or even demolish to rebuild with a larger structure.

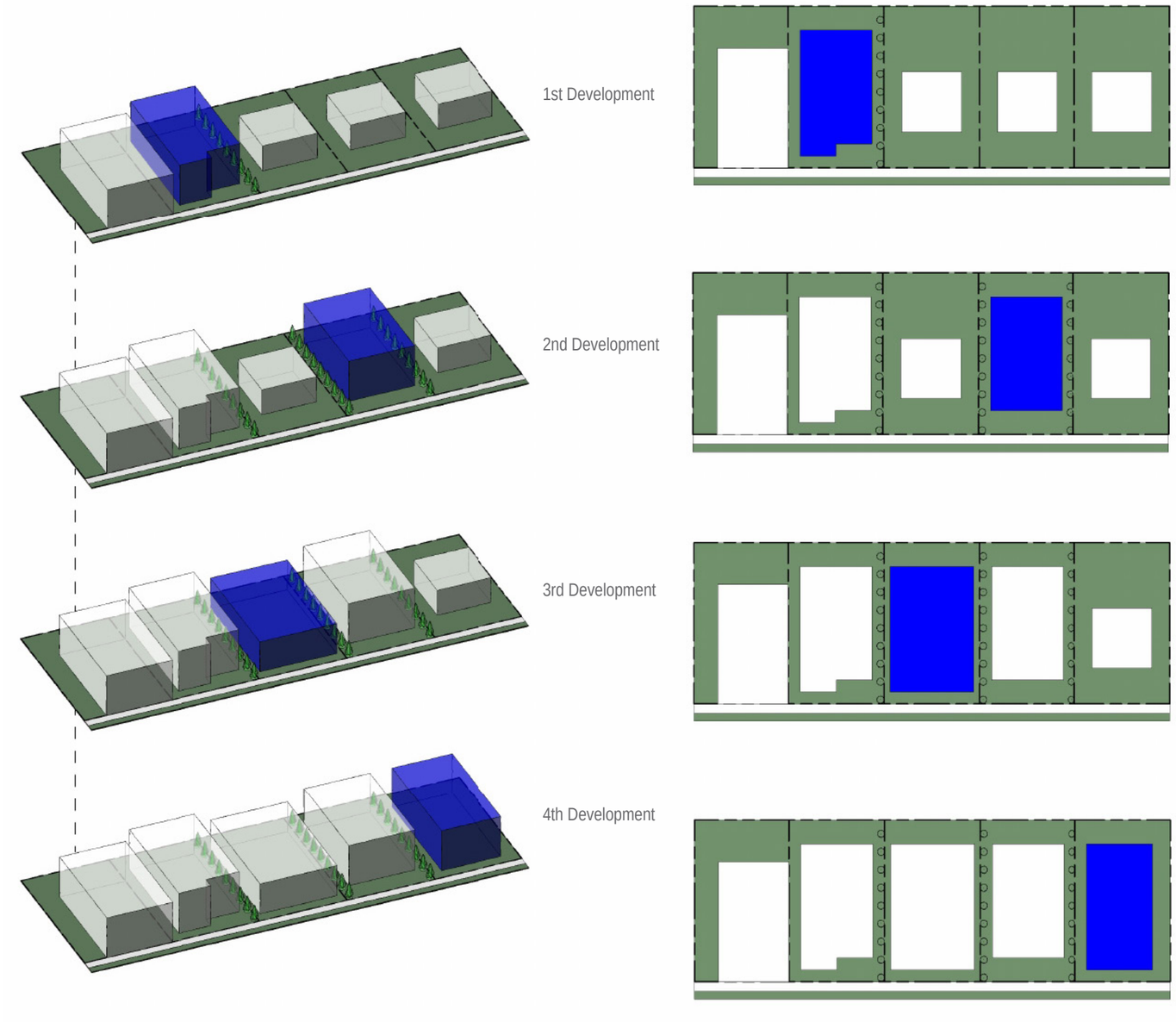
The intent of these guidelines is to maintain the residential charm and character of this area, while allowing for adaptive reuse of houses into contemporary businesses as well as new construction, accommodating a mix of uses.

Materials and Colors

In all new construction the primary building material should be full depth masonry. The masonry color should reflect the historic Berthoud style of muted red earth tones. Use of historic masonry detailing such as articulated lintels, articulated caps, and horizontal articulation lines is required.

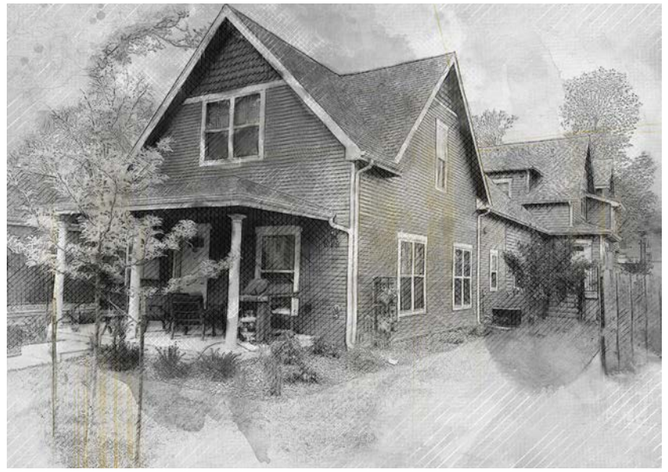
The primary building material shall constitute at least 60% of the total wall area for all elevations; excluding the glazing area of the facade.(Some varieties of historic Berthoud architectural typology could be excepted under planning staff discretion) Secondary building materials shall be of high quality, durable products. Refer to the Berthoud Architectural Design Guidelines for compliance options based on Place Type District for Urban Downtown.

Building setbacks within the Residential Conversion District will need to maintain a portion of the typically large front lawn space of original historic homes, while allowing for the transition to smaller front and side yard lot line necessary for newer developments.



The diagram above shows the progression of new development adjacent to existing residential structures and how, over time, the block can infill with a higher density while respecting the residential character that currently exists.

Preservation of Historic Homes and Context





Demolition of, or major alterations to, historic houses is strongly discouraged and is not allowed without approval of the Town Board.

Additions should be located to the side and/or rear of the house and should be consistent with the scale of the original home. Side additions should be setback from the front face enough to allow the profile of the original structure to be clear and obvious.

When converting a single-family house to a new use, maintain the original location and character of the front porch/ stoop.



Providing handicapped accessibility to existing historic homes that typically have elevated stoops and porches can be difficult. Integrating a lengthy ramp into the building and site design requires careful consideration.

New Construction Adjacent to Historic Homes

New construction will likely be larger than older neighboring structures but should strive to maintain the residential scale and features.

Key considerations shall include:

- General proportions should be consistent with adjacent structures, including similar floor-to-floor heights and solid-to-void ratios.
- Divide larger structures into smaller components that more closely mimic the traditional single-family home dimensions.
- Although platelines/roofs on new construction will be taller, they should be consistent in form and character. This can be accomplished by blending predominately flat roof areas over larger expanses with sloped roof elements at key accent locations such as entries and highly-visible corners.
- Step down stories and roof lines from back to front and from side to side.
- Retain the diversity of architectural styles that currently exists.
- Orient new buildings parallel to their lot lines with the primary entry integrated into a porch or portico design element facing Mountain Avenue.



Parking in rear off alley



Stair step roof line down from back to front

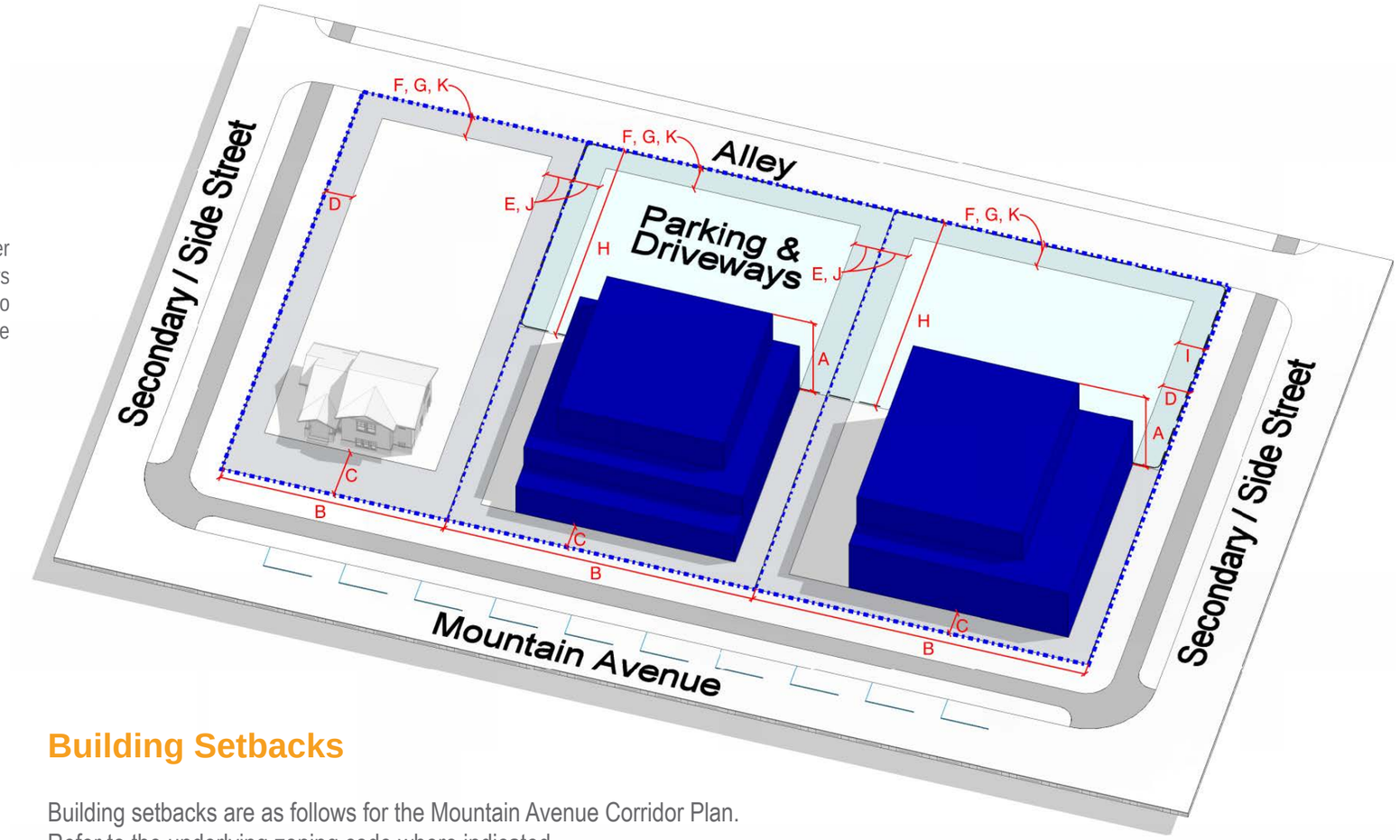


Integrate multiple, smaller gable end elements, dormers and front porch shed roofs to maintain a comparable scale

Subtle material changes with carefully integrated trim details create visual interest



Blended tones/shades of complementary colors create a pleasing color palette



Building Setbacks

Building setbacks are as follows for the Mountain Avenue Corridor Plan. Refer to the underlying zoning code where indicated.

Mountain Avenue Development Criteria

Description		Residential Conversion
	Density and Lot Coverage	Per Underlying Zoning
A	Building Height [5]	Maximum: 3 Stories (40 feet) Minimum: 2 Stories (20 feet)
B	Minimum Lot Width	Per Underlying Zoning
	Building Orientation	Parallel to Front lot line

Building Setbacks		
C	Mountain Ave / Highway 56 [6,7]	10 ft. min, 20' max
D	Secondary or side street	10 ft min, 15 ft. max
E	Side yard (3 stories)	10' ft. min
E	Side yard (2 Stories)	5 ft. min
E	Side yard (1 Story)	5 ft. min
F	Rear	Per Underlying Zoning
G	Rear Alley	Per Underlying Zoning

Off-Street Parking and Driveway Setbacks		
H	Mountain Ave / Highway 56 [9]	Behind building, accessed from alley where possible
I	Secondary or side street	5 ft. min
J	Side yard	0 ft. min
K	Rear	0 ft. min
	Max parking and driveway frontage [4]	0%

Mountain Avenue ROW Encroachments		
	Outdoor dining areas and display areas	8 ft. max.[2]
	Awnings	6 ft. max
	Balconies	4 ft. max[3]
	Bay windows and building projections	2 ft. max
	Building eaves	2 ft. max
	Patio cover roof	2 ft. max.

Notes:

[1] The ground floor front facade may be recessed/setback to accommodate outdoor dining and/or outdoor display areas. Where these features are not intended, facades shall have a 0 foot front setback.

[2] A six foot minimum unobstructed clear zone shall be provided within ROW around outdoor dining areas for pedestrian circulation

[3] Balconies, bay windows and other building projections extending in to the public right-of-way shall provide 10 feet min. vertical clearance above the sidewalk elevation or finish grade.

[4] Off-street parking areas and driveways fronting Mountain Ave, Hwy 56 and/or secondary/side streets shall be screened from view from the public right of way. Screening shall be 3' min in height and shall be accomplished with berms, low walls, planting, etc. Within the Downtown Commercial District and the Residential Conversion District screening shall be accomplished with walls and/or decorative metal fences having 75% min opacity. Wall materials shall match materials used on the associated building. Unless approved otherwise, wood fences are not allowed along Mountain Ave in the Downtown Commercial District

[5] Small tower elements and roof forms/parapet walls associated with primary building entries may exceed the maximum building height by 15%.

[6] Permanent features such as steps, ramps, landings, and uncovered porches shall not extend more than 40% into required setback.

[7] Front setbacks abutting Mountain Avenue shall be measured from the ultimate right-of-way line.

[8] Zero foot (0') front setbacks are allowed for buildings having frontage on Gateway Park Blvd located within the proposed Village Center. Setback shall be measured from the ultimate right-of way of Gateway Park Blvd.

[9] Drive thru lanes located between a public street and a building are discouraged. In situations where this condition cannot be avoided, the minimum building setback can be increased by 15 ft, and a 3 ft. high screen wall shall be installed along the length of the drive-thru lane abutting the public right-of-way. In any case, the drive thru window may not be oriented toward Mountain Avenue.





Streetscape

The narrow street right-of-way reinforces the residential scale of this district. Existing street trees should be preserved and protected, and new street trees should be added where gaps exist. Large canopy shade trees should be centered in the tree lawn at 40-foot spacing. The continued use of flowerpots on the street corners is also recommended to build on the Garden Spot theme.

Ultimate Street Cross Section

The ultimate street cross section is consistent with the State Highway 56 Access Control plan. Eight-foot tree lawns and six-foot detached sidewalks enhance the overall aesthetic and pedestrian experience. The street is not wide enough to accommodate on-street bike lanes.

A 10-foot minimum building setback allows room for outdoor dining and/or garden spaces in front of buildings while reducing impacts to existing mature street trees.

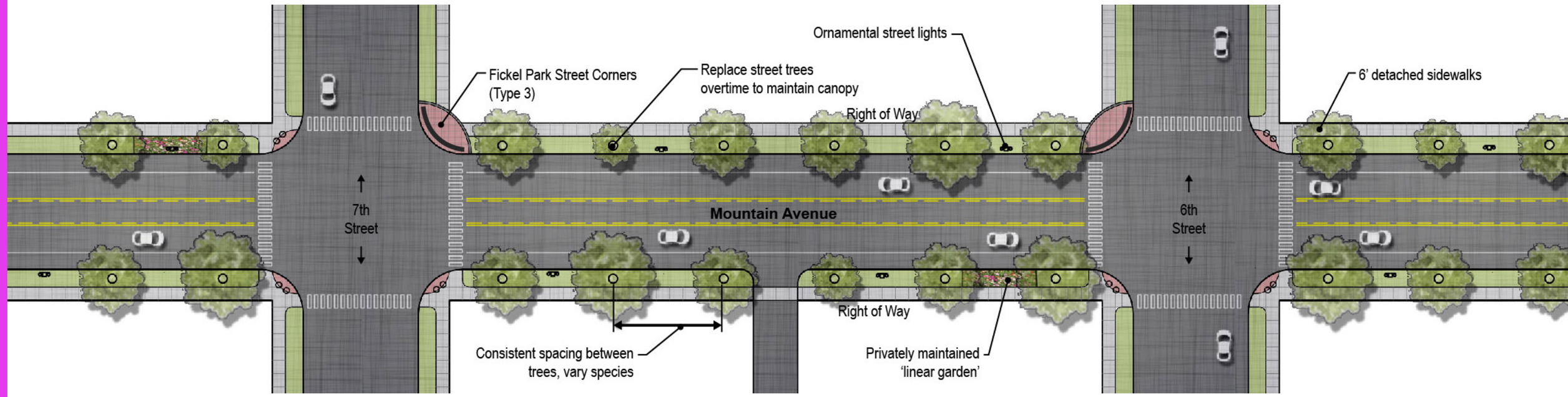
[Left] Private artwork at a residence in this character district

[Bottom] Streetscape diagram

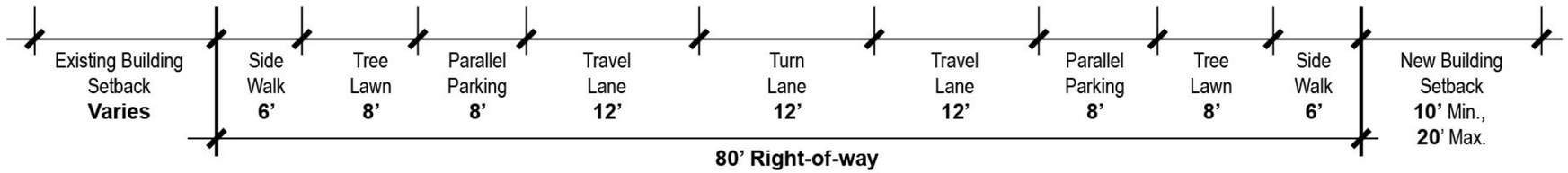
[Right] Ultimate street cross section

[Below] Owner maintained right of way street planting as shown in the streetscape diagram






23 LEGAL SERVICES


Existing Building Setback
Varies
Side Walk
6’
Tree Lawn
8’
Parallel Parking
8’
Travel Lane
12’
Turn Lane
12’
Travel Lane
12’
Parallel Parking
8’
Tree Lawn
8’
Side Walk
6’
New Building Setback
10’ Min.,
20’ Max.
80’ Right-of-way

Redevelopment

As commercial development interest grows in downtown Berthoud, this district could experience some redevelopment pressure. Two general strategies can be implemented based on the property owner's interest: 1) redevelop the properties to look like an extension of downtown, or 2) renovate/redevelop and continue operating a commercial business out of a residential style building.

Even after redevelopment, this district should always include more green spaces than the Downtown Commercial District. Shallow front yards, outdoor dining. gardens, and detached walks with tree lawns will differentiate this district.

Existing businesses out of homes



Option 1: Enhance Existing



Option 2: Redevelopment



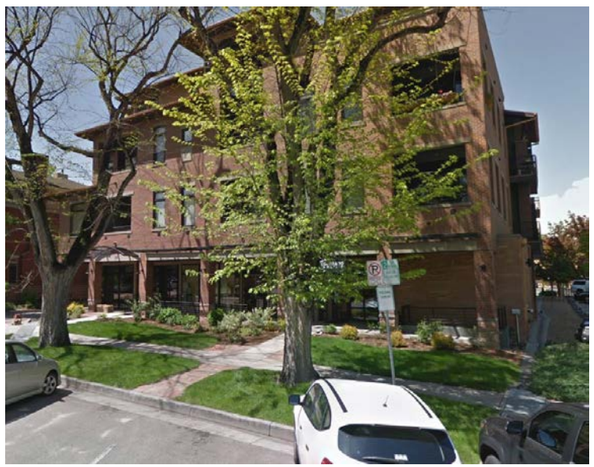
New Developments, Extension of Downtown

As properties redevelop, building setbacks will decrease, building frontage will increase, 3-story buildings may appear, and a commercial character will emerge over time. See architecture section for building aesthetic and transition strategies.

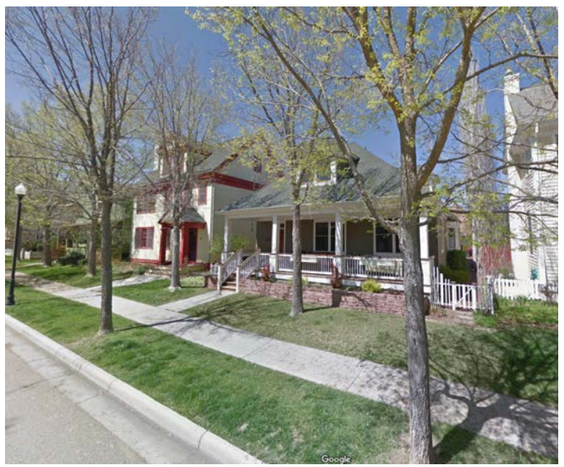
Shallow "front yards" are recommended for new developments to protect the existing mature street trees and to allow space for other private amenities. Zero-foot side yard setbacks will increase building frontage occupation, where permissible. See architecture section for building aesthetic and transition strategies.

New Development Examples:







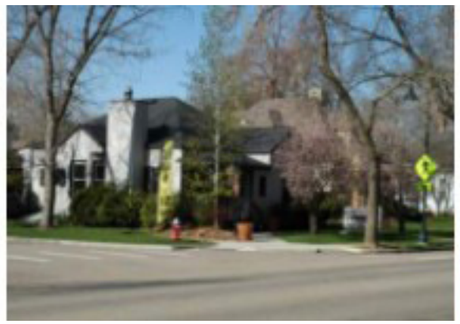


Existing Developments, Businesses in Homes

Businesses operating out of former residences is a common theme within this district. The architecture is residential in character and scale but the homes have been modified in minor ways as required to operate a business. Ramps have added to create accessible routes, signs have been retrofitted in a variety of locations, and lights have been added to attract attention.

See below for improvements that could be made to enhance this district

Existing Berthoud Examples:




Enhancement Examples:



Colorful and tasteful painting



Appropriate Signage, Lighting



Patio Furniture, Low Front Yard Fence



Landscaping



Facade Improvements

Fickel Park

Fickle Park is the centerpiece of this district and is cherished by the community. However, the park is underutilized due to the lack of open areas, and limited park amenities. Improvements to the park could significantly increase its visual appeal, day-to-day use, and functionality for events and festivals.

- Today, a collection of bronze sculptures is randomly positioned in Fickle Park along Mountain Avenue. Thoughtful placement of new and existing sculptures within a sculpture garden [4] would honor the Town's art collection and become a memorable Garden Spot.
- The introduction of new play features and/or interactive sculptures [1] would add visual interest and enrich the park experience for young families.
- Provision of garden features like arbors, low walls, and plantings would create inviting comfortable spaces to linger [2].
- Small gathering spaces, hangout spaces, and seating would bring people together. The existing tennis court is out of place and should be removed and reconstructed in another park. This will allow space for a variety of activities that serve the broader community [3].
- The mature trees should be preserved to the greatest extent possible.

[Top Right] A perspective rendering from Mountain Avenue featuring the Berthoud School archway

[Bottom Row] See photo references in text above





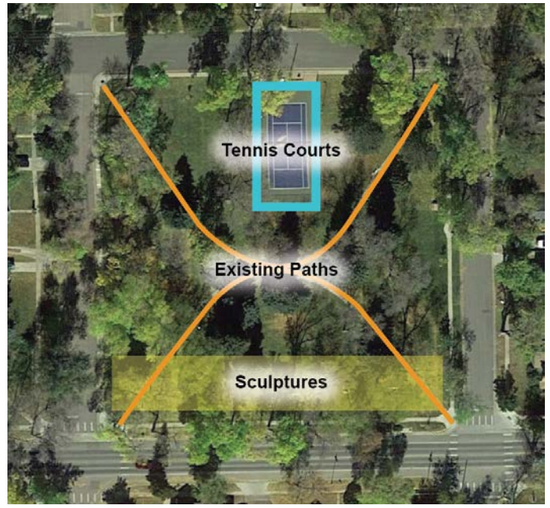












MASSACHUSETTS AVENUE

6TH STREET

7TH STREET

MOUNTAIN AVENUE

0’ 100’

N

Circular pathway

Open Turf Play Area

Playground/
Interactive Artwork

Pavilion & Picnic

Existing Trees
to remain

Arbor

Garden Wall

Sculpture Garden with
landscaping to enhance artwork

Enhanced Park
Street Corners

[Top Right] A diagram showing some of the existing conditions in Fickel park

[Left] A concept plan showing the enhancement suggestions to Fickel Park


Fickel
Park











‘Pocket’ Neighborhood

During one of the public open houses, a community member suggested that the former motel on the south side of Mountain Avenue (between 6th and 7th Streets) be converted to a ‘Pocket Neighborhood’. Pocket neighborhoods are described as a clustered group of neighboring houses or apartments around a shared open space such as a garden or courtyard. These neighborhoods foster a strong sense of community, make housing affordable, are attractive to a variety of ages, and conserve space in a dense and well-established part of town. This concept is encouraged throughout this district.

[Opposite] View of Fickel Park from the intersection of Mountain and 5th Street with a sculpture garden in the foreground, interactive play features in the mid-ground, and open turf play area in the background

[Above] Former motel, existing apartments with large parking lot that could be converted to a pocket Neighborhood

[Left 3 Images] Pocket Neighborhood examples


BERTHOUD
DRUG & GIFTS
DRUG
RE/MAX

Downtown Commercial

Downtown Commercial Character District

Berthoud's Downtown District has the greatest concentration of character and personality, and it shapes much of the Town's identity. Its buildings give a sense of history, its businesses and restaurants show the liveliness of the town, and its quirks set it apart from other towns in Northern Colorado. And while the downtown has changed over the years, its essence is well preserved.

The historic brick buildings found on the 300 and 400 blocks of Mountain Ave form the heart and soul of Downtown Berthoud. These blocks have continuous urban edges and invite people to walk along the storefronts.

The 100 and 200 blocks are characterized by an eclectic mix of industrial and historic buildings. The Berthoud Historical Society building, and the Pioneer Museum are the architectural bright spots on the 200 block. The urban edges are fragmented and are less appealing for pedestrians.

The railroad tracks create a physical and psychological gap in the downtown fabric which needs to be addressed to connect and expand the downtown district.

District Extents

The Downtown Commercial character district extends from 7th Street to 1st Street on the south side of Mountain. The District extends from the alley between 6th and 5th Street on the north side of Mountain to 1st Street.

Existing Zoning

Neighborhood Commercial District (C1)

Significant Features:

The roundabout at Mountain and 1st signifies entrance to Downtown Berthoud
Greeted by T-Rex – unexpected and fun
Skate Park
Pioneer Museum
People places - restaurants, cafes, coffee shops, breweries, bakery, shops, salons, businesses, and housing.

Preferred Land Uses

Ground floor uses – Restaurants, Retail, Office, Professional Services, and other similar uses
Upper floors – Residential, Restaurants, Retail, Office, Professional Services, and other similar uses.



Goals

- Create a rich and exciting environment that attracts people to downtown stores and restaurants
- Activate street scene with outdoor dining, rooftop decks, and other people spaces
- Protect historic buildings
- Protect and reinforce quirky creative vibe
- Enhance building facades

[Top] Map showing the extents of the Downtown Commercial Character District

[Opposite] Diagram showing the district opportunities

Signage

In general, building mounted signs are recommended in this district. This includes wall mounted signs, window signs, and awning signs. The type, scale and style of the signage should be designed to complement the character of this district and the building that the sign is associated with. The use of internally illuminated signs and awning should be restricted. If signs are illuminated, external down-lighting should be provided.

"A-frame portable sandwich board signs" are currently allowed and commonly used for businesses located on cross-streets within one block of Mountain Avenue in the Downtown Commercial District. These signs contribute to the uniqueness of Berthoud's downtown environment, and the use of the signs should continue. However, a maximum of one sign should be allowed on each street corner to reduce visual clutter, and the signs should be well designed, and constructed of quality materials (metal, wood, stone). Plastic signs are not allowed. Sign permits are required for these signs. Pole mounted and free-standing signs are prohibited in this district.

Improvement Opportunities

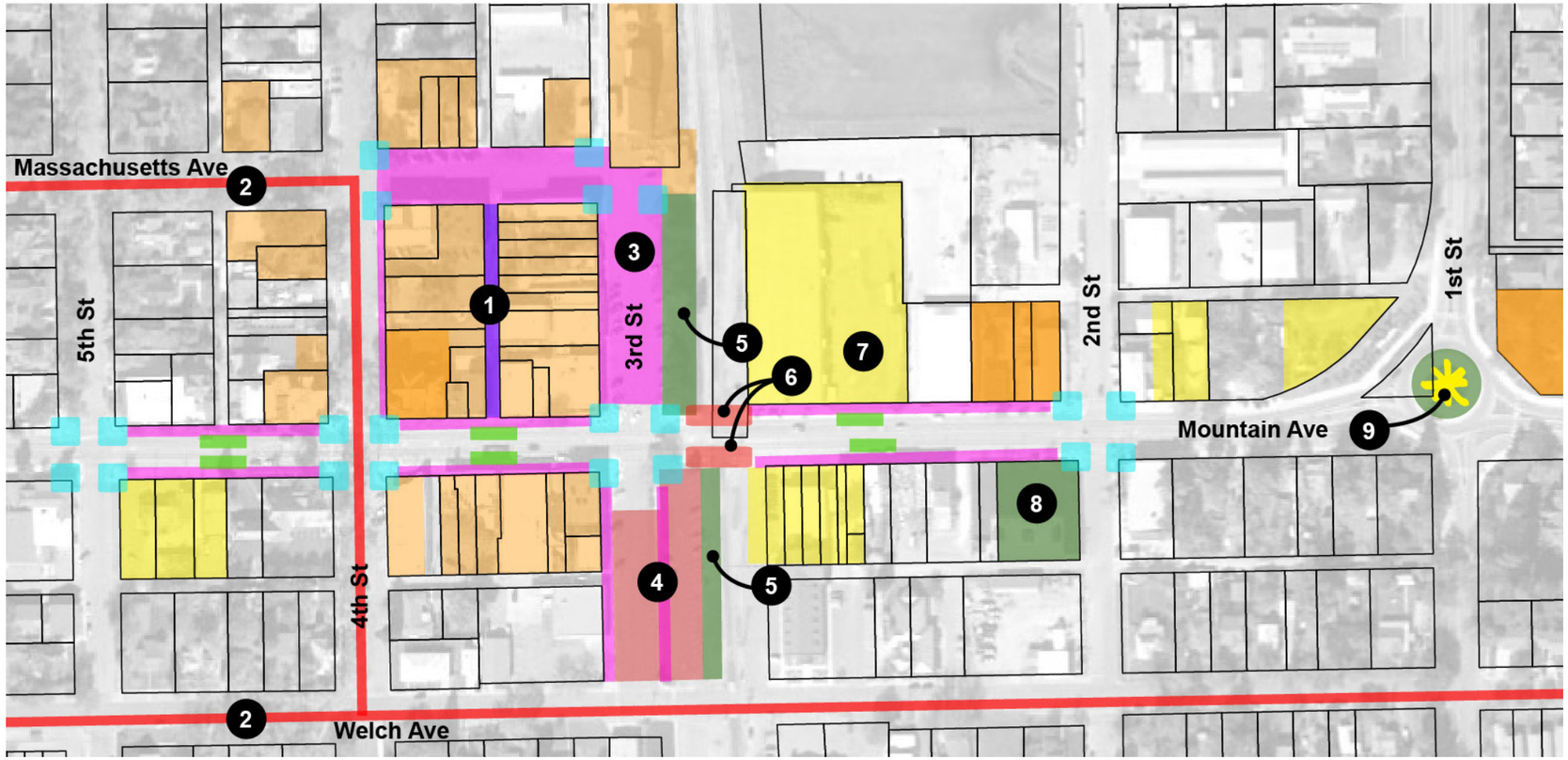
Several opportunities have been identified in the downtown commercial district to enhance the overall aesthetic and address some of the challenges associated with this district. The overall intent is to first identify what is significant, historical, or otherwise aesthetically important, and enhance those features. Second, identify unsightly, antiquated, inefficient, or ineffective elements, and improve them.

In general, these improvements and enhancements include streetscapes, alleyways, public spaces, private development opportunities, and architecture. Specific opportunities include:

- Reimagine Skate Park to add life and interest
- Façade enhancements
- Identify and market redevelopment opportunities
- Relocate fire station away from main street and convert building to people-oriented use
- Encourage painted murals on blank or unattractive sides of buildings
- Strengthen downtown connection across railroad tracks
- Adaptive reuse of the large metal building east of the railroad tracks
- Public parking opportunity east of large metal building
- Convert the 500 block of 3rd Street and the 300 block of Massachusetts Avenue into flexible curbless streets that can be used for public events
- Restore the historic depot building as a focal point
- Enhance streetscape and parking lots on the 400 block of 3rd Street – improve ped connections, landscaping and buffering
- Enhance downtown street corners
- Alley conversion – space for people and vehicles
- Strengthen urban edge on south side of Mountain Ave east of 5th Street.
- As redevelopment occurs, private driveways accessing Mountain Avenue will be eliminated and a continuous left turn lane may not be necessary. Eliminating portions of the turn lane could allow space for landscaped medians, widened sidewalks, diagonal parking or other urban amenities.
- The Town should consider creating a Business Improvement District that could be used to fund improvements to building facades, streetscapes, and features that would benefit the community.

Redevelopment Opportunity
Historic Commercial District
Historic Designation
Parking Enhancements
Street Corner Improvements, Type 2
Park Enhancement
Landscape 'Bulb-Out'
Streetscape Enhancements
Shared Bikeway
Alleyway Enhancements

1. Alley Enhancement
2. Shared Bikeway
3. 3rd Street & Massachusetts Avenue Streetscape Improvements
4. South 3rd Street Parking Enhancements
5. Improve Park
6. Railroad Connection
7. Adaptive redevelopment of existing Warehouse
8. Skatepark Enhancements
9. Gateway



Architectural Guidelines for Downtown Commercial District

The Town of Berthoud recognizes that its downtown contains the historic character and charm necessary to serve as the heart of the community far into the future. The intent of these guidelines is to protect and preserve the historic character of downtown, while allowing for adaptive reuse/ renovation of existing structures while encouraging appropriate infill development.

Most of the older buildings filled the entire width of one or more lots and fronted Mountain Avenue creating a fairly consistent scale and sense of rhythm. Therefore, new infill projects should follow along with similar perceived widths to reinforce this visual continuity.

However, this does not mean that new buildings should attempt to literally replicate earlier design forms, massing or details; rather they should use the existing context to inform new creative design solutions by striking a balance between old and new.

Preserve Historically Significant Buildings

Berthoud's historic downtown contains a variety of significant buildings that should be preserved, establishing the scale and character for downtown and providing design guidance for future development.

Berthoud's historic downtown buildings tell the history of the community and establish its unique character.

The Mountain Avenue downtown core is characterized by one- and two-story commercial block structures. This scale should be retained and used to guide the design of future development.

The historic integrity of existing downtown buildings should be retained and enhanced.

"Theming" or other artificial historical references are not needed to establish the character of downtown.

Retaining and reusing older buildings promotes environmental sustainability, with restoration or rehabilitation consuming far fewer resources than new construction.







While most buildings on Mountain Avenue are examples of early 20th century commercial downtown architecture, a variety of architectural styles are present with influences from Victorian, Neo Gothic and Craftsman. This diversity of styles should be enhanced through future development and infill construction.

Demolition of, or major alterations to, historic buildings is strongly discouraged.

Maintain Historical Architectural Details

Historic buildings are distinguished by the unique details, materials and craftsmanship of their construction.

Distinct historic details and embellishments establish a special character for the building. Original architectural elements that should be preserved include: cornices, window hoods, windows, entrance doors/frames, storefronts, transoms, mouldings, dentils, medallions, replicated, etc.



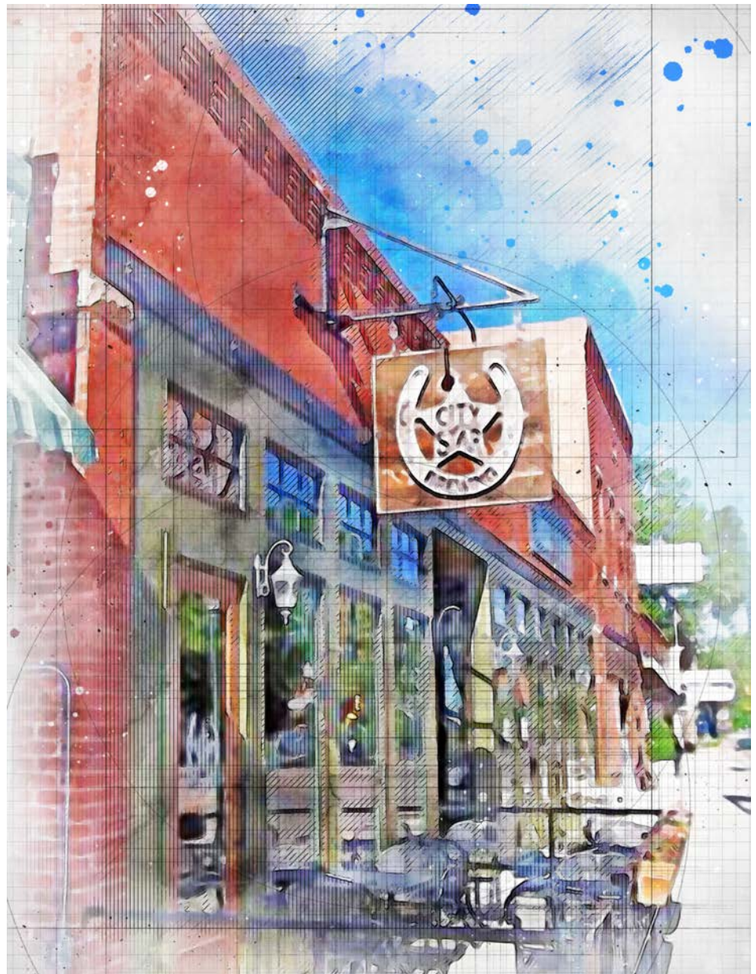


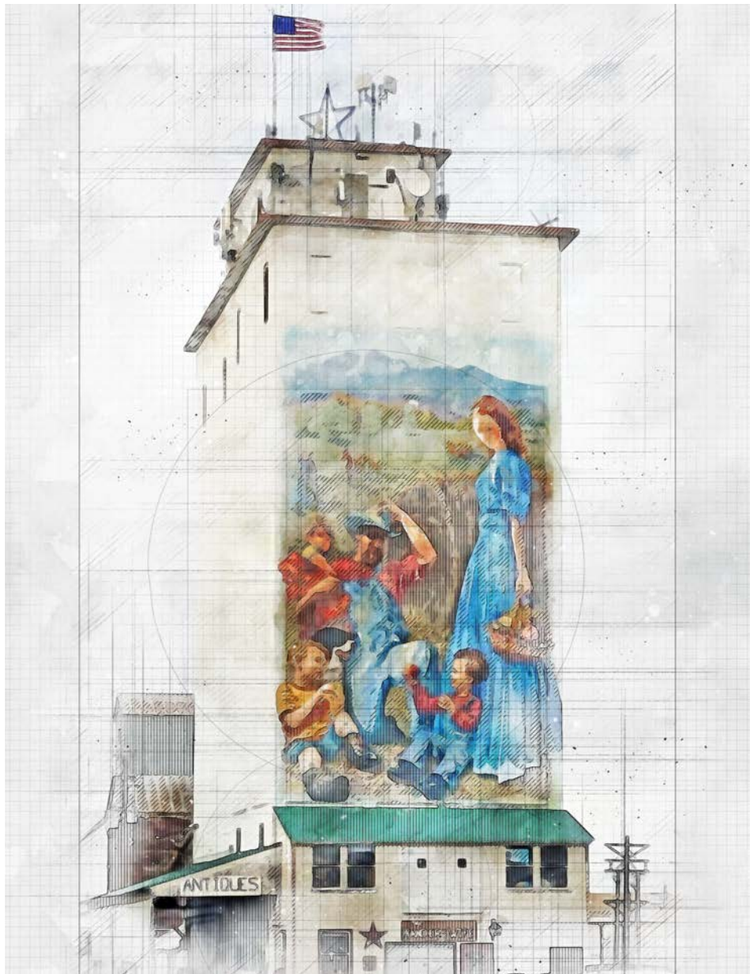
Building Awnings

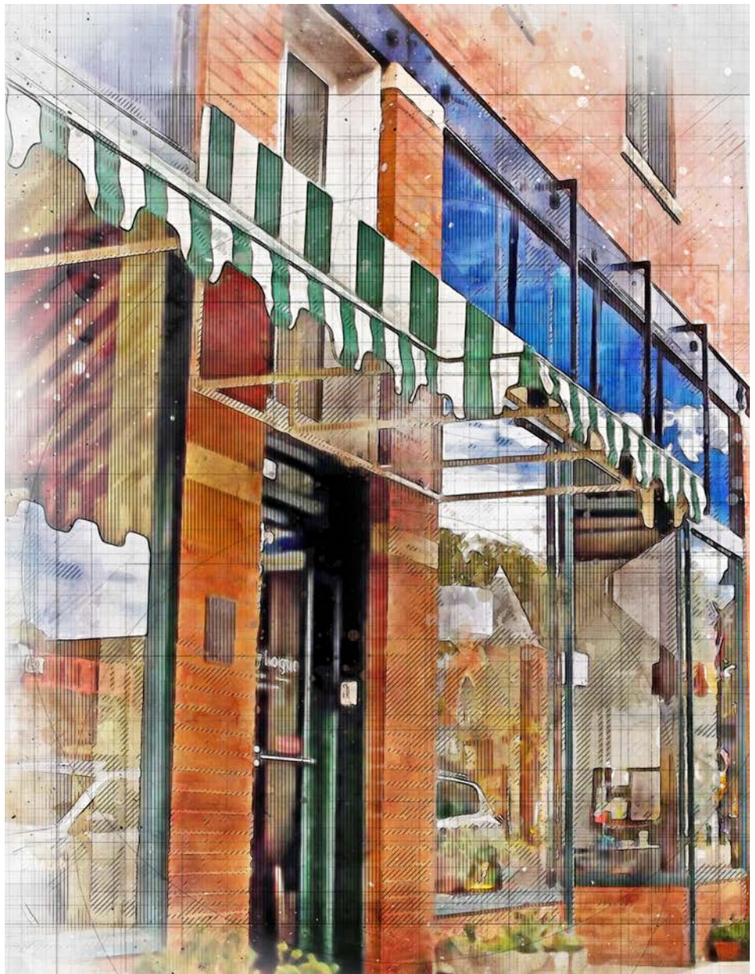
Awnings have been used for centuries to shade the facades and display windows of buildings and provide residents with protection from the elements.

Historic commercial and mercantile buildings of the late 19th and early 20th centuries used awnings extensively to help cool the buildings in the era before air conditioning, often including upper level windows. Awnings provide a cost-effective method to shade windows and conserve energy.

Awnings also provide a unifying design element to enhance the downtown streetscape and provide opportunities for colorful accents and signage.







Architectural Guidelines for Downtown Commercial District

Use ground level storefront to enliven the street

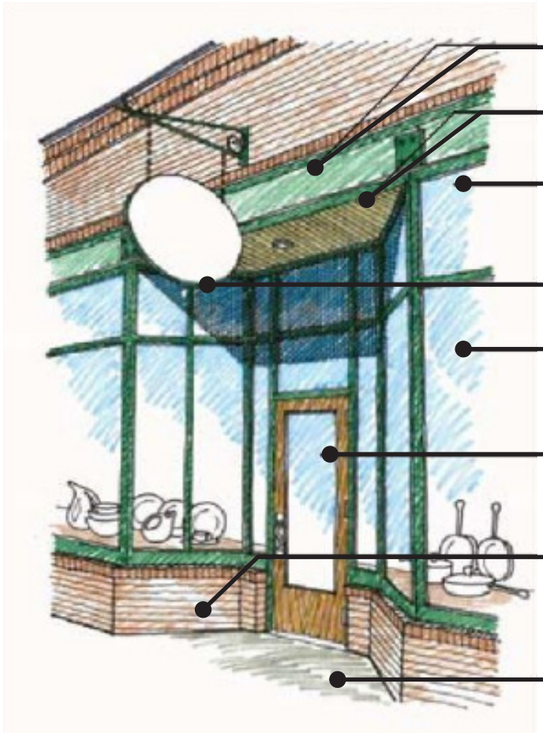
Ground level retail storefronts are indicative of the mercantile economy of historic downtowns of the late 19th and early 20th centuries. They often feature formal, symmetrical facades, large expanses of display windows flush with the building front walls, recessed entrances and decorative glass transoms.

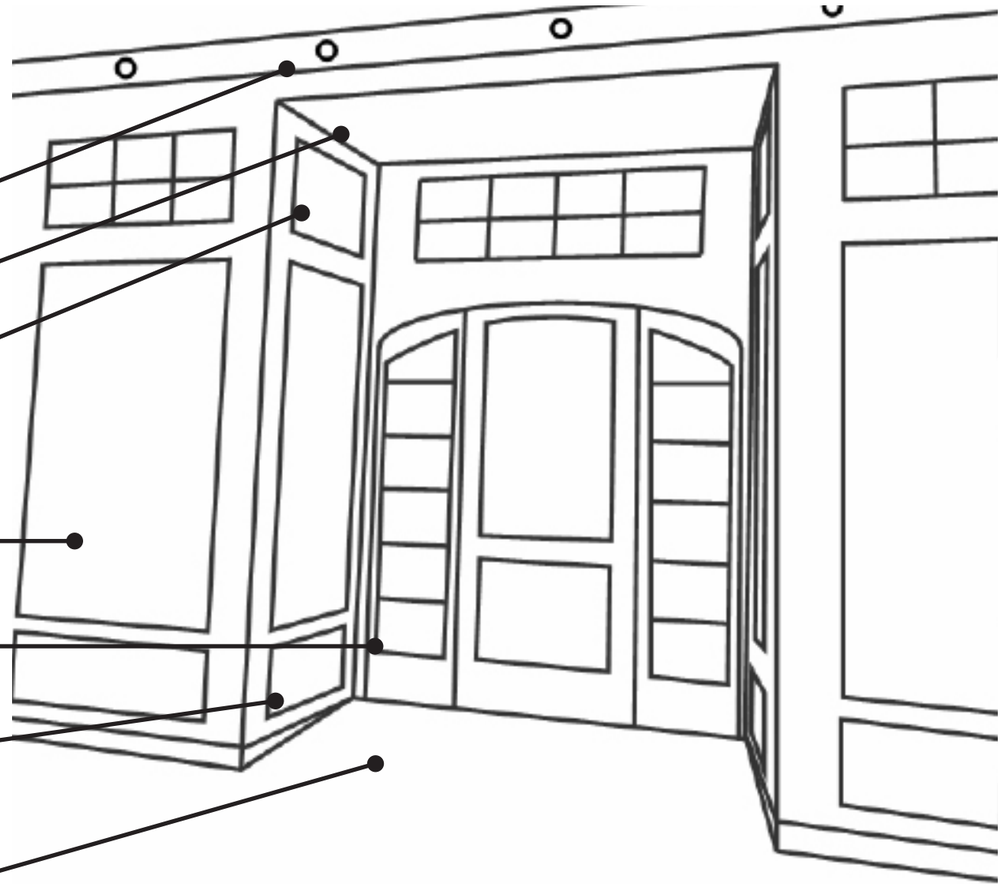
Retail storefronts create an intimate, pedestrian scale along the street, encouraging residents to slow down, interact and window shop.

The primarily glazed, ground level storefronts create a distinction between the public retail facade and the more private areas of the upper levels, often expressed by individual punched window openings.

The higher ceilings of historic, ground level retail storefronts have a character not often found in more modern construction.







Encourage infill development

Communities are encouraging infill development of vacant downtown properties and redevelopment of inappropriate or underutilized buildings to revitalize their historic downtowns.

Designed properly, new construction can blend seamlessly with original, historic buildings to create a vibrant downtown environment.

Open or undeveloped downtown properties break the rhythm of the streetscape, leaving gaps in the downtown fabric that accumulate litter and debris, and encourage vandalism, graffiti and loitering.

New infill development should not mimic the exact historic designs and details of existing structures, but pick up on the rhythm and spacing of elements to be compatible with and complementary to them.



Basic principles for new development should include:

- Orient building parallel to street and align front facade with established sidewalk edge.
- If a portion of the building must be set back, use traditional urban site features to maintain defined sidewalk edge noted above
- Create a clearly defined front entry recessed at least 3’ so out swinging doors do not project into the perpendicular circulation path
- Predominate massing at the front property line should be one- or two-stories with setbacks for additional stories
- Floor-to-floor heights should appear to be consistent with heights traditionally seen in older adjacent buildings





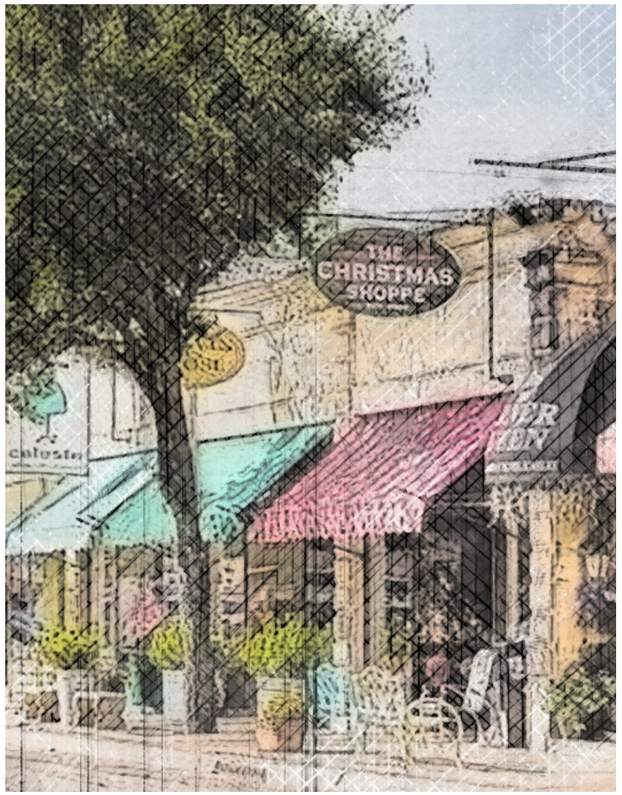
Architectural Guidelines for Downtown Commercial District

Materials and Colors

The primary building material should be full depth masonry. The masonry color should reflect the historic Berthoud style of muted red earth tones. Use of historic masonry detailing such as articulated lintels, articulated caps, and horizontal articulation lines is required.

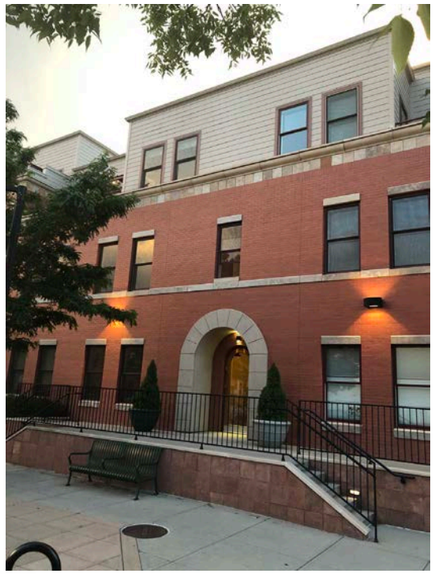
The primary building material shall constitute at least 70% of the total wall area for all elevations; excluding the glazing area of the façade.

Secondary building materials shall be of high quality, durable products. Refer to the Berthoud Architectural Design Guidelines for compliance options based on Place Type District Urban Downtown

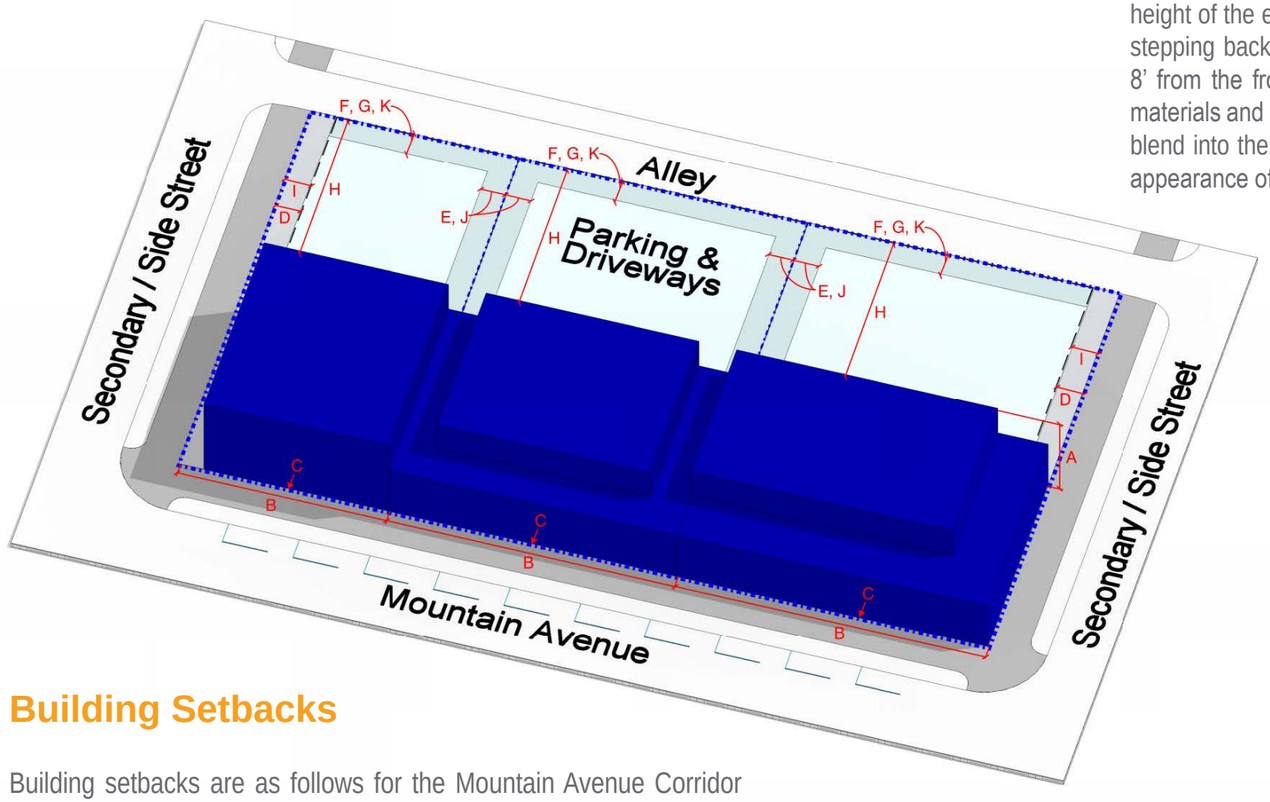




Infill development should respect the scale and massing of the historic streetscape while encouraging a higher density use.



New, taller buildings should respect the height of the existing adjacent buildings by stepping back the additional story at least 8’ from the front vertical plane. Changing materials and using lighter finish colors that blend into the skyline can also reduce the appearance of added density.



Building Setbacks

Building setbacks are as follows for the Mountain Avenue Corridor Plan. Refer to the underlying zoning code where indicated.

Mountain Avenue Development Criteria

Description		Downtown Commercial
	Density and Lot Coverage	Per Underlying Zoning
A	Building Height [5]	Maximum: 3 Stories (40 feet) Minimum: 2 Stories (20 feet)
B	Minimum Lot Width	Per Underlying Zoning
	Building Orientation	Parallel to Front lot line

Building Setbacks		
C	Mountain Ave / Highway 56 [6,7]	0 ft. min, 10 ft. max[1]
D	Secondary or side street	0 ft. min, 10 ft. max[1]
E	Side yard (3 Stories)	0 ft.
E	Side yard (2 Stories)	0 ft.
E	Side yard (1 Story)	0 ft.
F	Rear	Per Underlying Zoning
G	Rear Alley	Per Underlying Zoning

Off-Street Parking and Driveway Setbacks		
H	Mountain Ave / Highway 56 [9]	Behind building, not accessed from Mountain Avenue
I	Secondary or side street	5 ft. min
J	Side yard	0 ft. min
K	Rear	0 ft. min
	Max parking and driveway frontage [4]	0%

Mountain Avenue ROW Encroachments		
	Outdoor dining areas and display areas	8 ft. max[2]
	Awnings	6 ft. max
	Balconies	4 ft. max[3]
	Bay windows and building projections	2 ft. max
	Building eaves	2 ft. max
	Patio cover roof	2 ft. max.

Notes:

[1] The ground floor front facade may be recessed/setback to accommodate outdoor dining and/or outdoor display areas. Where these features are not intended, facades shall have a 0 foot front setback.

[2] A six foot minimum unobstructed clear zone shall be provided within ROW around outdoor dining areas for pedestrian circulation

[3] Balconies, bay windows and other building projections extending in to the public right-of-way shall provide 10 feet min. vertical clearance above the sidewalk elevation or finish grade.

[4] Off-street parking areas and driveways fronting Mountain Ave, Hwy 56 and/or secondary/side streets shall be screened from view from the public right of way. Screening shall be 3' min in height and shall be accomplished with berms, low walls, planting, etc. Within the Downtown Commercial District and the Residential Conversion District screening shall be accomplished with walls and/or decorative metal fences having 75% min opacity. Wall materials shall match materials used on the associated building. Unless approved otherwise, wood fences are not allowed along Mountain Ave in the Downtown Commercial District

[5] Small tower elements and roof forms/parapet walls associated with primary building entries may exceed the maximum building height by 15%.

[6] Permanent features such as steps, ramps, landings, and uncovered porches shall not extend more than 40% into required setback.

[7] Front setbacks abutting Mountain Avenue shall be measured from the ultimate right-of-way line.

[8] Zero foot (0') front setbacks are allowed for buildings having frontage on Gateway Park Blvd located within the proposed Village Center. Setback shall be measured from the ultimate right-of way of Gateway Park Blvd.

[9] Drive thru lanes located between a public street and a building are discouraged. In situations where this condition cannot be avoided, the minimum building setback can be increased by 15 ft, and a 3 ft. high screen wall shall be installed along the length of the drive-thru lane abutting the public right-of-way. In any case, the drive thru window may not be oriented toward Mountain Avenue.

Signage

Bracket mounted signage projecting from walls is an effective, historically-sensitive method to provide building/business identification in the downtown area with zero lot lines.

Projecting bracket signs are more pedestrian in scale, typically mounted on pilasters or walls at a height closer to the sidewalk.

Projecting signs are oriented perpendicular to the movement of pedestrians along the sidewalk, a more appropriate and sensitive solution than larger, flush mounted signs oriented to the automobile.







Streetscape ‘Bulb-Outs,’ with canopy shade trees, low growing shrubs and perennials



Street Lights, pedestrian lighting, festival/ holiday lighting



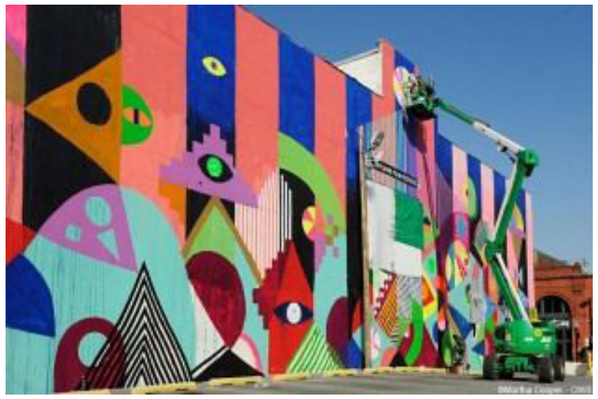
Right of way encroachments, dining, railings, planters, awnings, building signs, etc.



Street furniture, benches, tree grates, planter pots, seatwalls, etc.



Activated pedestrian street spaces



Wall Murals



Roof-top dining



Art in public spaces



Parking buffering



Space for festivals and events downtown



Enhanced alleys



Fire pit

On-Street Parking

Parallel parking exists on both sides of Mountain Avenue within this district. This plan recommends removing a small number of parking spaces near intersections to allow room for expanded “bumpouts” that provide much needed pedestrian spaces for outdoor dining, seating, and urban design enhancements. Existing parallel parking on cross-streets could be converted to diagonal parking to compensate for the reduction in on-street parking on Mountain Avenue. Refer to the Parking Diagram for parking improvement recommendations.

Off-Street Parking

Existing off-street parking areas are located behind the buildings and are accessed from the alleys on the rear and/or side of the lots. This concept should be continued. Off-street parking areas shall not be visible from Mountain Avenue. Front loaded parking should not be permitted with new developments within this district.

As the Town grows, demand for off-street public parking areas will increase within, and near, the Downtown Commercial District. Opportunities for additional public parking are identified in the Parking Opportunities diagram.





Parking Opportunities

As Berthoud develops and grows, the need for parking near the downtown commercial core will increase. Some of the recommended urban design enhancements will result in minor decreases in the number of parking spaces along Mountain Avenue, while others will create a net increase in on-street and public parking capacity within the Downtown Commercial District.

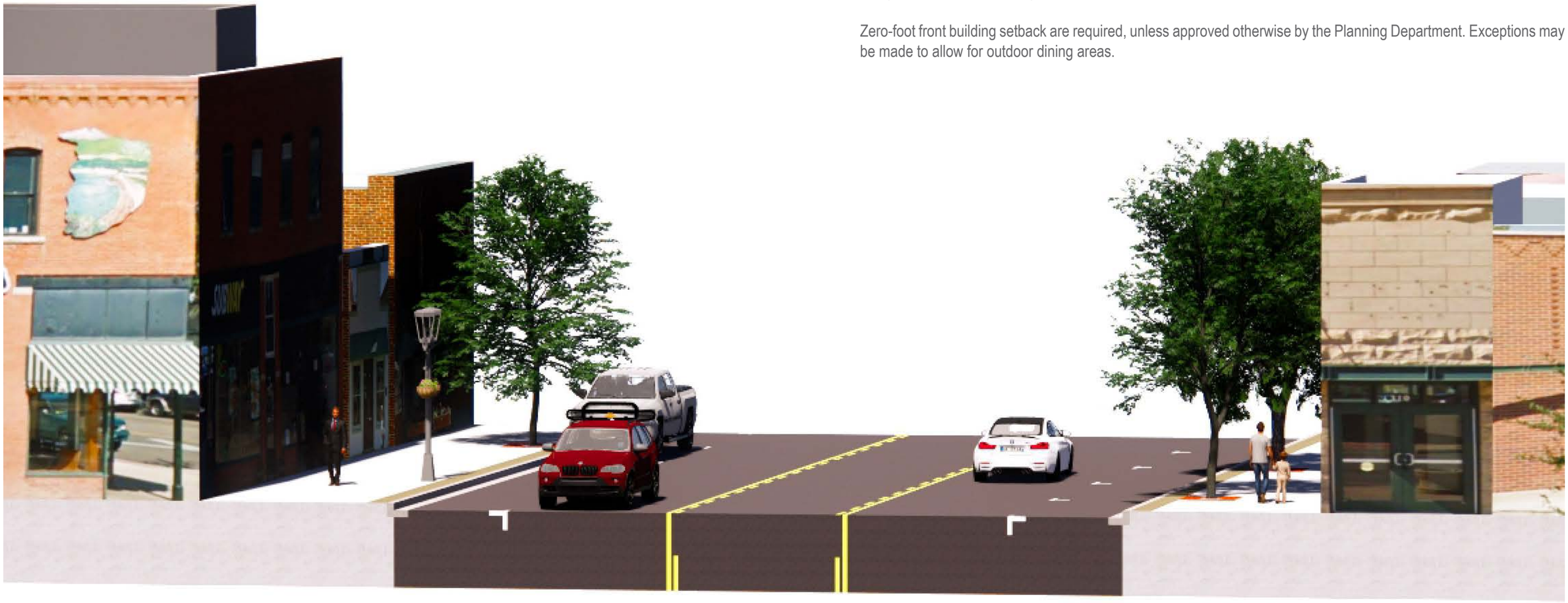
1. The small ballfield at 5th Street and Welch could be replaced with a public parking lot to increase parking capacity in close proximity to downtown.
2. In several places, on-street parallel parking on cross streets could be converted to diagonal parking to moderately increase the total number of spaces available.
3. Suggested streetscape improvements could result in the addition of landscape ‘bulb-outs’ which would decrease the number of on street parking spaces by a small amount
4. A suggested improvement on the public parking lot on 3rd Street between Mountain and Welch could decrease the number of parking spaces by a small amount, see 3rd Street Improvements
5. Suggested improvements to the public parking on the 500 block 3rd Street between Mountain and Massachusetts could decrease the number of parking spaces by a small amount, see 3rd Street Improvements.
6. The warehouse development opportunity could convert its oversized asphalt loading area to contribute to a moderate increase in parking, see Warehouse Development Opportunity.
7. An alley loaded row of parking on the south side of Skate Park could result in a moderate increase in parking. See Skatepark Opportunity.

Ultimate Street Cross Section

The ultimate street cross section is consistent with the State Highway 56 Access Control plan. The eighty-foot right-of-way accommodates 1 travel lane in each direction, a center turn lane, and parallel parking on both sides of the street. The street is not wide enough to accommodate on-street bike lanes.

Sidewalks will extend between curbs and building faces, and a narrow paver band will abut curbs between intersections. The paver bands will match pavers used at street corners.

Zero-foot front building setback are required, unless approved otherwise by the Planning Department. Exceptions may be made to allow for outdoor dining areas.



Existing Building Setback	Side Walk	Parallel Parking	Travel Lane	Turn Lane	Travel Lane	Parallel Parking	Side Walk	New Building Setback
Varies	**+/- 14’**	**8’**	**12’**	**12’**	**12’**	**8’**	**+/- 14’**	**0’** Max

80’ Right-of-way

Streetscape

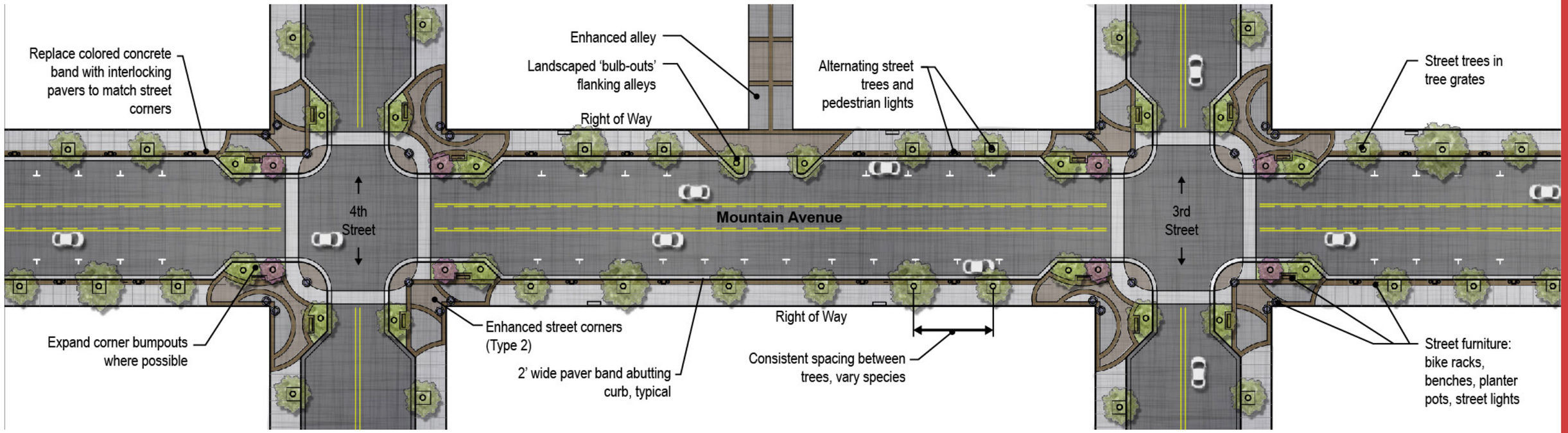
The downtown environment requires a durable urban streetscape that allows for heavy pedestrian activity, outdoor dining, street furniture and ornamental lighting. Regularly spaced street trees will be planted in tree grates or tree wells. Hanging flower baskets will be placed on light poles and flowerpots will be placed on street corners and in other locations. Flowers are important because they add charm, vibrance, and a sense of caring. All of the landscape improvements should be watered with an automatic irrigation system, if possible.

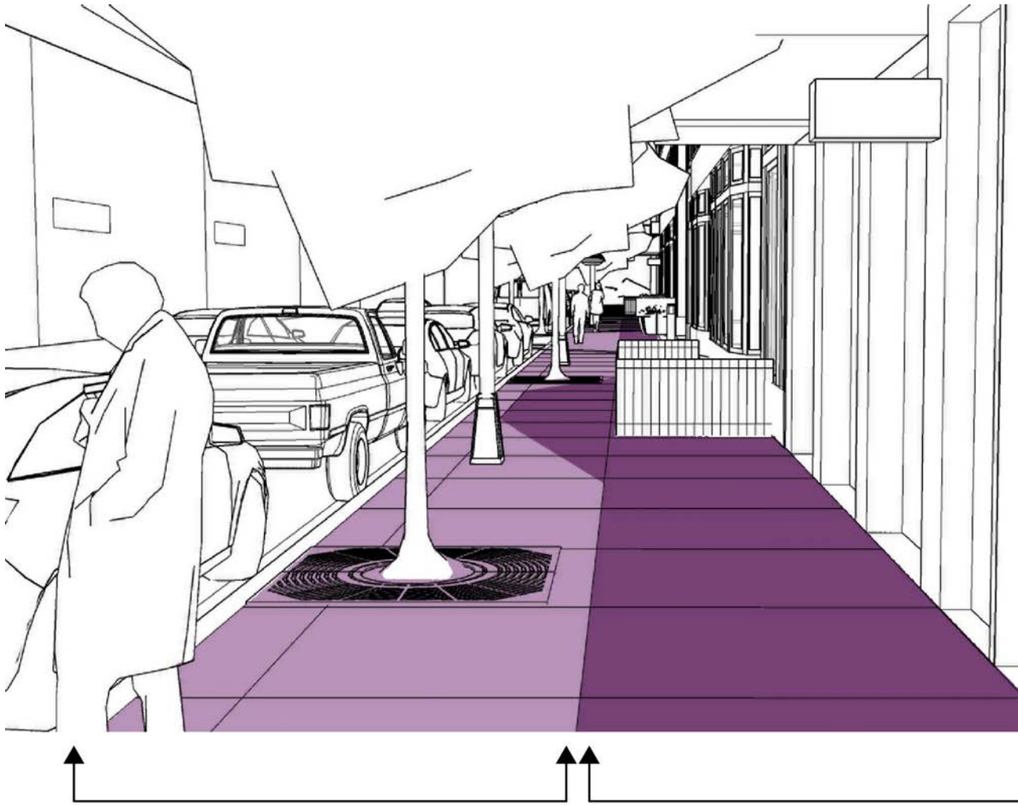
[Bottom] Streetscape improvements diagram

[Right] Existing streetscape with a good example of shared encroachement space while maintaining walkable clearance

[Opposite] Ultimate street cross section







Street furniture and curb zone: trees, tree grates, paver band, bike racks, street lights, etc.

Frontage encroachment zone, private furniture: benches, flower pots, outdoor dining fences, etc. Ensure 6’ clear walking path throughout.



Private encorachment dining & furniture



Public street furniture



Landscape ‘Bulb-Outs’



Existing colored concrete band to be replaced with pavers

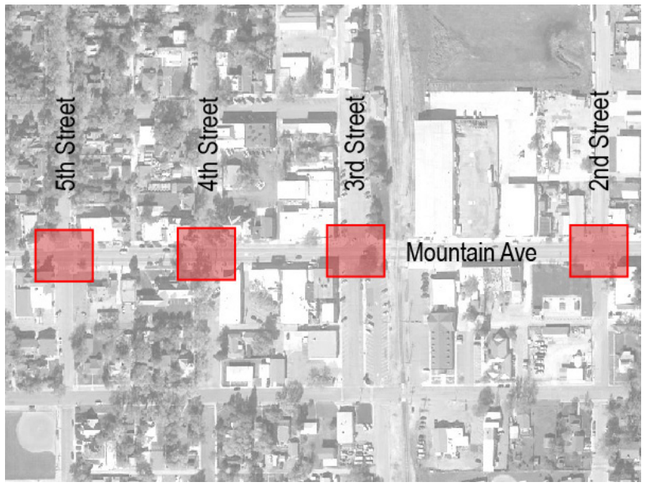
[Top Left] Sidewalk zones, provide 6’ minimum clear zone for pedestrian circulation

[Opposite] A perspective rendering showing a typical Downtown Commercial streetscape and bumpouts at alley entry



Downtown Street Corners (Type 2)

Hospitable pedestrian spaces are scarce in the Downtown Commercial District. Expanded street corners, or “bumpouts”, will provide small but meaningful people spaces along Mountain Avenue. Additional trees on street corners will offer shaded seating areas, and decorative walls will separate pedestrian spaces from the street creating a sense of security and safety within the bumpouts. Pavers add warmth and richness to the corners and complement the historic buildings. And finally, high quality street furniture (benches, flowerpots, and lighting) will add comfort and appeal to the corners.



[Top] A diagram showing the priority corners where the type 2 street corner improvements could be implemented

[Right] A plan view of a typical type 2 street corner

[Opposite] A bird’s eye rendering of a typical type 2 street corner






Low-maintenance planting
Custom corner barrier by local artist
Standard Gray Crosswalk
Pavers
Large Planter Pot at corner
Medium sized accent Planter Pots
Bench
Sculpture opportunity
Custom corner barrier by local artist
Canopy shade tree



Canopy shade tree

Pavers

Medium sized accent Planter Pots

Large Planter Pot at corner

Planter Curb

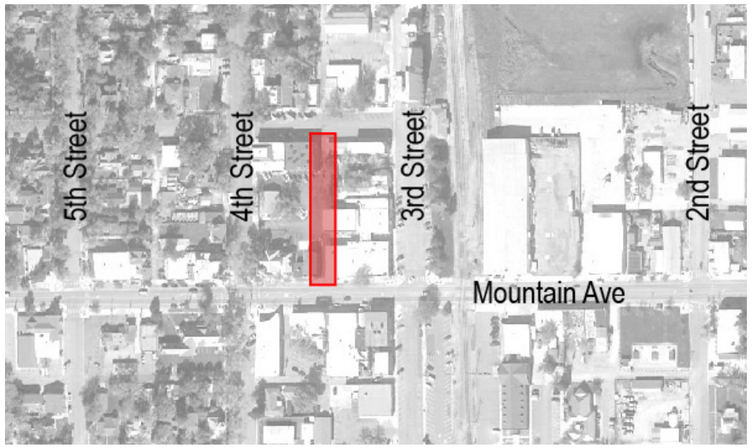
Bench

Low-maintenance planting

Custom corner barrier by local artist

Downtown Alleys

The alleyway between Mountain Avenue and Massachusetts Street (see map below) could be converted to a shared space for pedestrians and vehicles, with an emphasis on people. The image on the right and the image on the opposite page illustrate potential improvements to the alley which could improve the downtown experience and walkability.







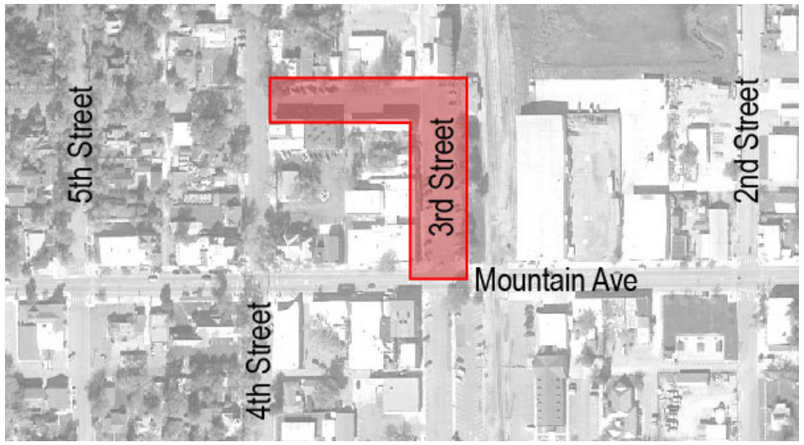





Window Planters
Festoon Lights
Pavers
Benches
Planter Pots
Bollards
Wall Murals
Pedestrian Lights with hanging basket

North 3rd Street & Massachusetts

The 500 block of 3rd Street and the 300 block of Massachusetts are envisioned as “Curbless Streets”. Philadelphia’s Curbless Streets report (January 2018) says “Curbless streets, shared space, flex space, and woonerven (or the singular, woonerf) stem from a concept in which typically narrow streets with low vehicle volumes are designed without a curb and with high-quality streetscape materials, enabling the street to function like a plaza or a paved yard. Through the use of design elements such as paving treatments and strategically placed vertical elements, curbless design cues drivers to behave differently than on conventional streets. In addition to being safe and comfortable streets for pedestrians, curbless streets are often beautiful places to visit. They span diverse physical contexts, including both historic and contemporary settings, and each seems to be relevant and vibrant.” The image on the opposite page portrays the 500 block of 3rd Street as a curbless street.











Typical street furniture

Curbless, detectable warning surface

Diagonal Parking

Street pavers

Splash-Pad

Banners

Parallel Parking

Art-wall

Picnic shelter

Massachusetts Avenue

Forth Street

Third Street

Mountain Avenue

- Lovejoy Elevator
- Renovated Depot Building
- Splashpad
- Bollards
- Planter pots
- Existing diagonal parking
- Proposed parallel parking
- Pedestrian light
- Plant areas
- Alley
- Pavillion
- Art Wall
- Gateway/monument/entry
- Seatwall
- Enhanced street corners



Convertible Streets



Decorative Paving



Curbless Streets



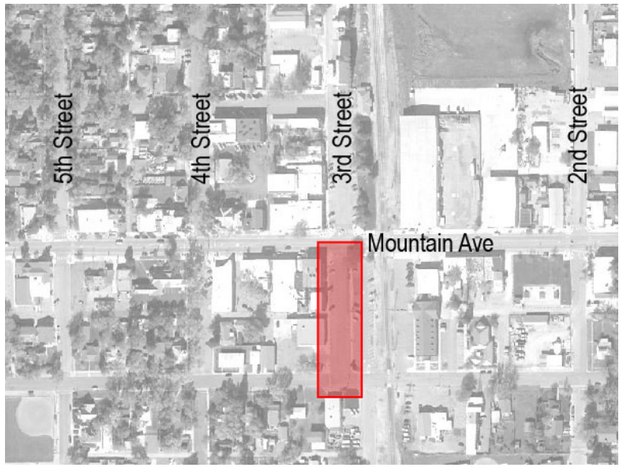
On-Street Deliveries



Event Space



Splash Pad

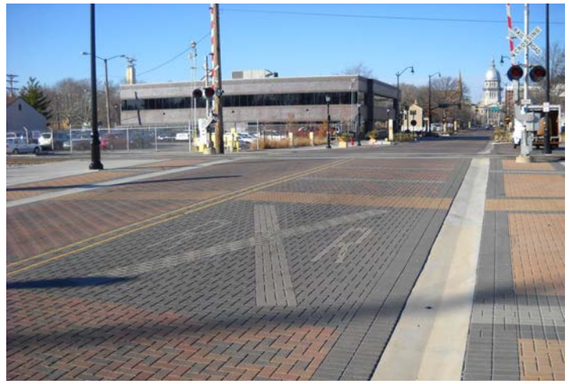


South 3rd Street (400 Block)

The 400 block of 3rd Street contains a good supply of public on-street parking, but it is a pavement jungle that detracts from downtown's charm. Additional plantings, lighting and parking lot screening are needed. See conceptual site plan on the right.



Parking Landscape Buffer

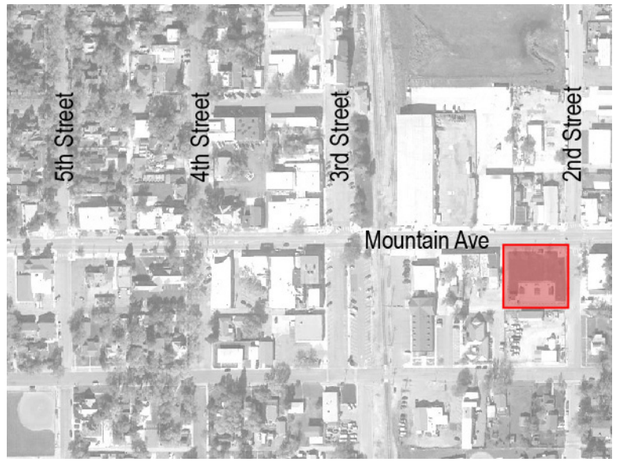


Railroad Interface



Skatepark Conversion Opportunity

Skate Park (see map below) is a small underutilized park. The green space is nice to have, but its size limits its usefulness. This plan recommends converting the space to an urban pocket park that builds on Berthoud's creative and artistic vibe. A few fun examples are shown on this page. Some include formal playgrounds while others are unstructured and flexible to allow for many uses.













Warehouse Development Opportunity

There are many inspiring examples of buildings that have been repurposed instead of replaced, and they're often more unique and authentic than a new building. The RINO District (Denver) and Granville Island (Vancouver) are prime examples because they focused their efforts on repurposing existing buildings that are rooted in the community and their placemaking power is remarkable.

The existing steel warehouse is not much to look at now, but it has a lot of potential. The image on the opposite page illustrates one concept for the adaptive reuse of this building.

The expansive parking lot next to the warehouse could also be improved with a few simple changes such as new asphalt surfacing, artistic striping and tree plantings. See photos on the bottom of this page.















Platform used for outdoor dining
Sun Shade
Existing steel building frame to remain
Existing building foundation used as elevated platform
Terrace guardrail planters
Bus Stop

Murals
Planting beds to introduce trees & shrubs
Additional Parking
Accessable routes

Industrial uses in rear of building
Truck loading docks to remain
Raised concrete terrace
Creative asphalt striping



Berthoud East

Berthoud East Character District

After crossing County Line Road 1 while traveling west on Hwy 56, there is a noticeable change in character, density and land uses, and a sense that you're nearing the Town. The large county lots on the north side of the Hwy 56 act as a nice transition from the rural agrarian areas to the downtown core, and no changes are planned for these lots. The undeveloped land on the south side of Hwy 56 is envisioned as a vibrant walkable residential district with a mixed-use area near the intersection of County Line Road 1 providing opportunities for shopping, dining, employment and other services. Appropriate land use, scale and density transitions from existing residential neighborhoods are critical.

District Extents

The Berthoud East character district extends along Mountain Avenue and Highway 56 starting east at 1st Street. The east extents end on the north side at County Line Road 1 and on the south side 1/2 mile east of County Line Road 1.

Significant Features

- Views of the Front Range of the Rocky Mountains
- Newell Farm – outdoor amphitheater and potential future public park
- Greenlawn Cemetery
- Large Agricultural Estate Lots on the North side of Hwy 56
- Brookside Gardens – private event space
- Mary's Farm and Fickle Farm Neighborhoods
- Peak View Neighborhood
- Historic home on northeast corner of 1st Street and Mountain Ave is a Berthoud Individually Designated Landmark

Existing Zoning

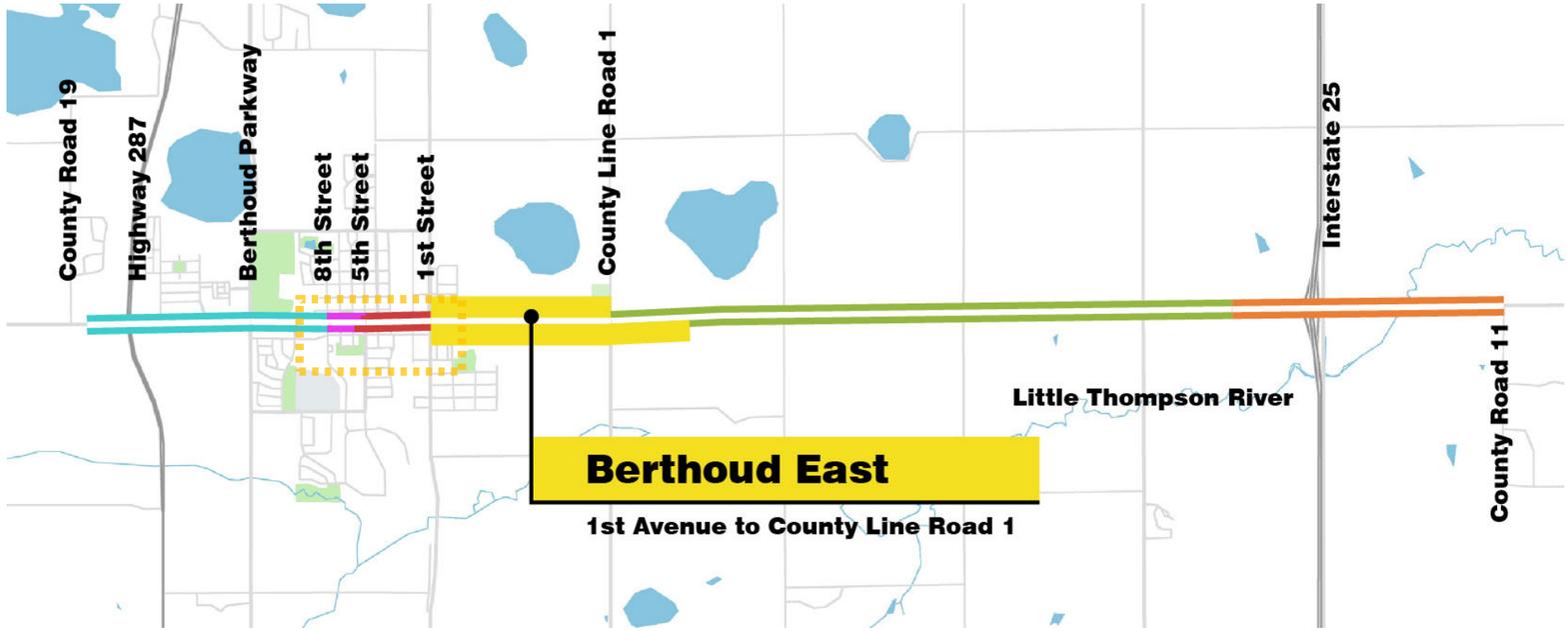
Parcels located in the Town of Berthoud are zoned: Single Family (R1), Multi-Family (R3), Neighborhood Commercial (C2), Transition (T), and Planned Unit Development (Fickle Farm PUD, Farmstead PUD, Peakview Meadows PUD, Marys Farm PUD)

Parcels in Larimer County are zoned Farming (FA1).

Parcels located in Weld County are zoned Agriculture (A)

Preferred Land Uses

Primary Uses – Residential, Agriculture/Large Lot Estate Residential
Secondary Uses – Mix-Use Commercial



On-Street Parking

On-street parking is not permitted on Highway 56/Mountain Avenue within this district.

Off-Street Parking

New off-street parking lots should be shared to reduce the overall footprint of paved parking areas and be tucked behind and between buildings to minimize their visual presence.

Signage

Building mounted signs and ground mounted freestanding signs with horizontal massing are preferred. Pole signs should not be permitted in this district. Internally illuminated signs are permitted but the entire sign panel may not be illuminated. Text and logos may be illuminated, but the sign panel and cabinet shall be opaque.



Concept Plan

The conceptual plan for this district focuses on land located within the Town Limits and south of Highway 56. Proposed Highway 56 access locations are consistent with the Highway 56 Access Control Plan. Proposed east/west streets link to Welch, Michigan and Nebraska providing connections between existing neighborhoods and County Line Road 1.

Appropriate transitions from existing residential neighborhoods are critical, so mixed-use development is located near County Line Road 1 away from existing residential neighborhoods.

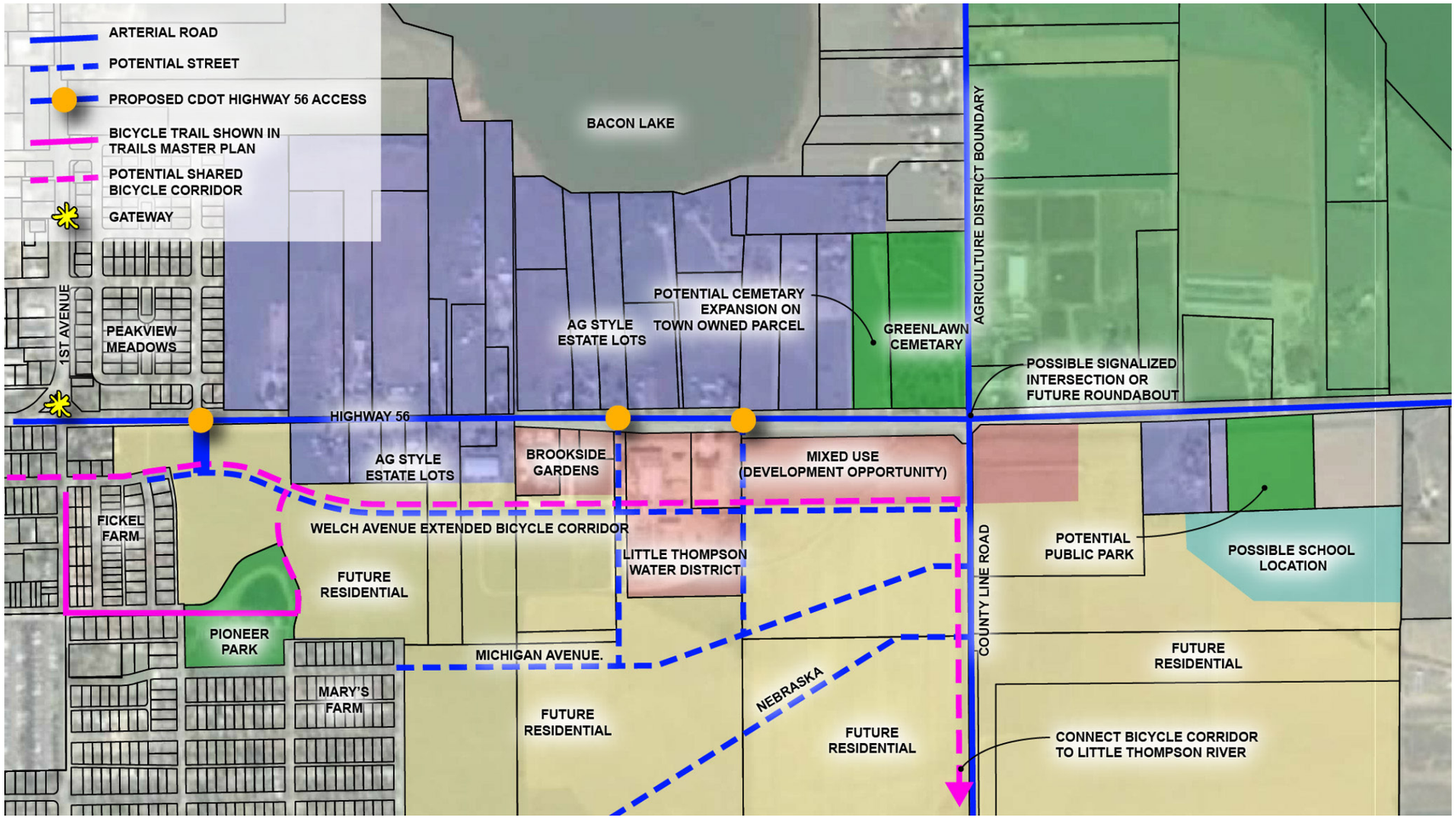
Like Berthoud West, the intent plan for this district departs from more traditional site planning principles where each lot has its own parking, detention, pedestrian spaces, and landscaping. Combining and sharing these elements creates a more integrated composition, improves walkability, and improves land use efficiency.

[Opposite Top] Map showing the extents of the Berthoud East Character District

[Bottom] Concept Plan & Opportunities

Opportunities

- As this area develops it will become people's first impression of the Town of Berthoud, and new developments fronting on Highway 56 should build on Berthoud's small-town charm and character.
- The speed limit on Highway 56 should be reduced as development occurs within this district
- Members of the community felt that the potential roundabout at intersection of Highway 56 and County Line Road 1 represents a significant opportunity highlight the Town's presence and personality. A gateway sign is not recommended in this location, but enhanced streetscapes within and surrounding the intersection/roundabout are recommended.
- Greenlawn Cemetery is nicely landscaped but could be improved by adding street trees along Hwy 56, a nice new sign, and replacing chain link fences with ornamental wrought iron style fencing. The Town should consider the future needs of the cemetery and consider expanding the cemetery into the Town owned parcel abutting the west edge of the cemetery.
- Sidewalks and dedicated bike lanes are needed along Highway 56/Mountain Avenue.
- Some of the existing developments have outdoor storage and large parking lots abutting Mountain Avenue. Landscape buffers and screening should be added along Mountain Avenue with a future "change of use" and/or building permits for expansions and/or renovations.



Architectural Guidelines for Berthoud East District

Similar to the Berthoud West District, the “East District” will focus on building massing and articulation, and will also look to carefully balance economic interests with the public good by ensuring strong pedestrian and bicycle connectivity with the downtown and residential districts to the west.

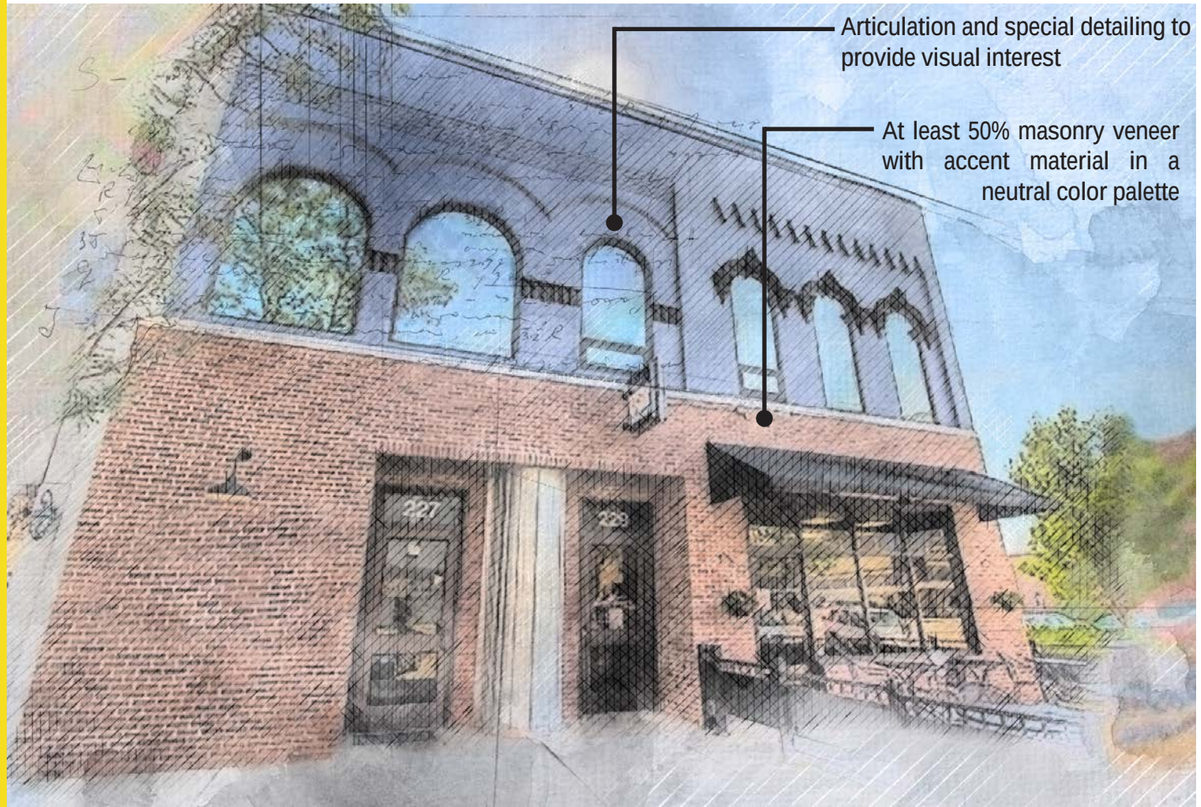
Scale and Density Focus

Multi-story, mixed use buildings will be encouraged in the denser mixed-use areas immediately adjacent to Mountain Avenue and then taper off in height, size and intensity of use as development extends further away from the overlay district.

Long facades should be broken down into smaller architectural expression through stepping. Stepping can be accomplished in both building elevation and in plan.

Third story step-backs provide a gradual scale transition between building heights and opportunities for rooftop patio space.





Building Materiality

The primary building material should be full depth masonry. The masonry color should reflect the historic Berthoud style of muted red earth tones. Use of historic masonry detailing such as articulated lintels, articulated caps, and horizontal articulation lines is required.

The primary building material shall constitute at least 50% of the total wall area; excluding the glazing area of the façade. (Some varieties of historic Berthoud architectural typology could be excepted under planning staff discretion).

Secondary building materials shall be of high quality, durable products. Refer to the Berthoud Architectural Design Guidelines for compliance options based on Place Type.



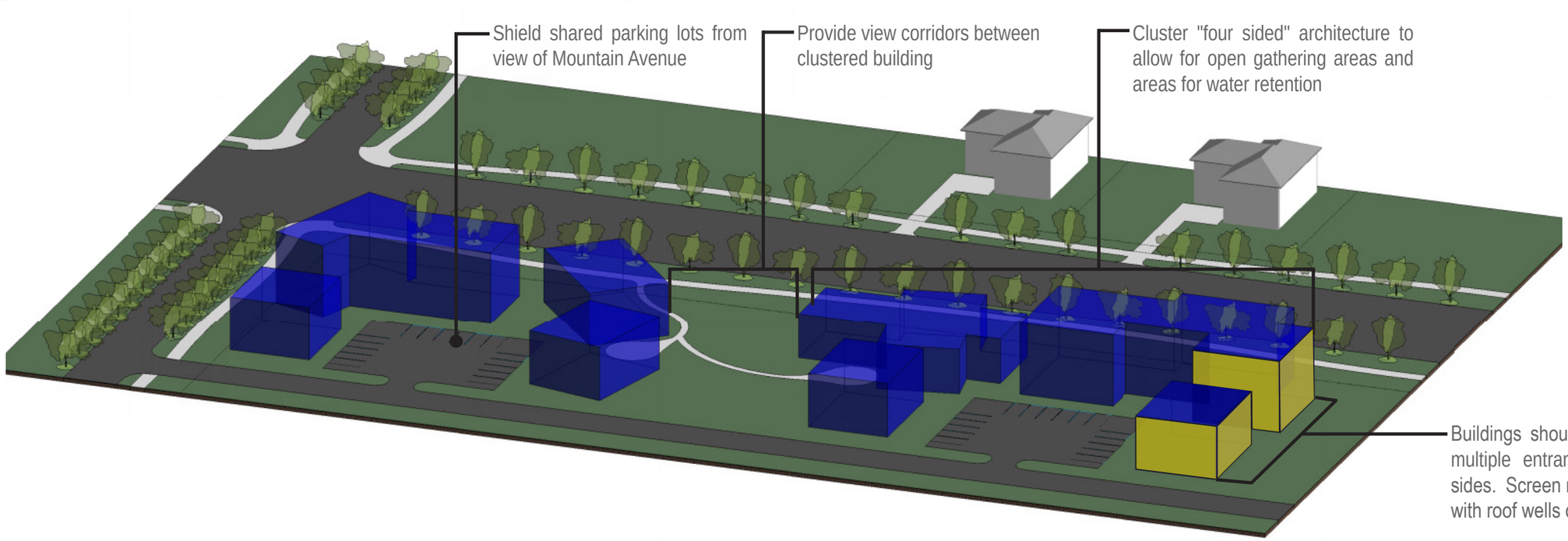
Balancing Developed Spaces

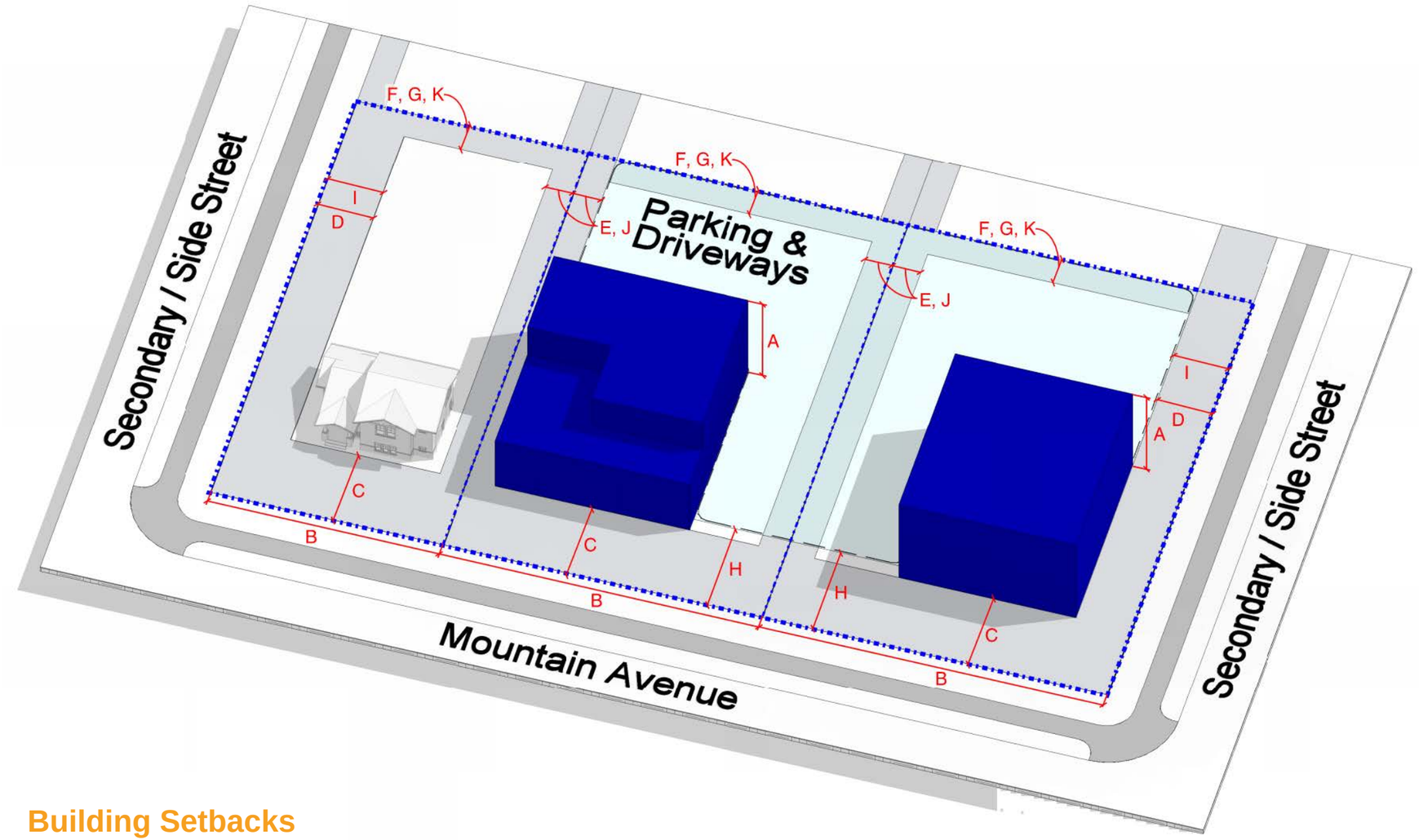
Shaping multiple buildings into dense clusters of development, formed around pedestrian and bicycle pathways while leaving reasonable expanses of open areas, will provide view corridors from Mountain Avenue and allow space for water retention.

Buildings should be used to define a strong street edge with upper floor step back and architectural embellishments at corners and main entry features.

Buildings should be oriented on front edge of setback to Mountain Avenue to allow parking in the rear. This provides for a more aesthetic streetscape by screening parking from Mountain Avenue.

Provide “four sided” architecture with multiple entrance points or articulation and mechanical and electrical equipment screening. All mechanical equipment is to be screened from views from across the street and/or middle of intersections or adjacent properties, whichever is further.





Building Setbacks

Building setbacks are as follows for the Mountain Avenue Corridor Plan.
Refer to the underlying zoning code where indicated.

Mountain Avenue Development Criteria

Description		Berthoud East
	Density and Lot Coverage	Per Underlying Zoning
A	Building Height [5]	Maximum: 3 Stories (40 feet)
B	Minimum Lot Width	Per Underlying Zoning
	Building Orientation	Parallel to Front lot line
Building Setbacks		
C	Mountain Ave / Highway 56 [6,7]	30 ft. min
D	Secondary or side street	20 ft. min
E	Side yard (3 Stories)	Per Underlying Zoning
E	Side yard (2 Stories)	Per Underlying Zoning
E	Side yard (1 Story)	Per Underlying Zoning
F	Rear	Per Underlying Zoning
G	Rear Alley	Per Underlying Zoning
Off-Street Parking and Driveway Setbacks		
H	Mountain Ave / Highway 56 [9]	35 ft. min., or 5 ft greater than proposed building setback, whichever is greater
I	Secondary or side street	20 ft. min
J	Side yard	5 ft. min, 0 ft. if shared
K	Rear	5 ft. min, 0 ft. if shared
	Max parking and driveway frontage [4]	40% lot frontage
Mountain Avenue ROW Encroachments		
	Outdoor dining areas and display areas	0 ft.
	Awnings	0 ft.
	Balconies	0 ft.
	Bay windows and building projections	0 ft.
	Building eaves	0 ft.
	Patio cover roof	2 ft. max

Notes:

[1] The ground floor front facade may be recessed/setback to accommodate outdoor dining and/or outdoor display areas. Where these features are not intended, facades shall have a 0 foot front setback.

[2] A six foot minimum unobstructed clear zone shall be provided within ROW around outdoor dining areas for pedestrian circulation

[3] Balconies, bay windows and other building projections extending in to the public right-of-way shall provide 10 feet min. vertical clearance above the sidewalk elevation or finish grade.

[4] Off-street parking areas and driveways fronting Mountain Ave, Hwy 56 and/or secondary/side streets shall be screened from view from the public right of way. Screening shall be 3' min in height and shall be accomplished with berms, low walls, planting, etc. Within the Downtown Commercial District and the Residential Conversion District screening shall be accomplished with walls and/or decorative metal fences having 75% min opacity. Wall materials shall match materials used on the associated building. Unless approved otherwise, wood fences are not allowed along Mountain Ave in the Downtown Commercial District

[5] Small tower elements and roof forms/parapet walls associated with primary building entries may exceed the maximum building height by 15%.

[6] Permanent features such as steps, ramps, landings, and uncovered porches shall not extend more than 40% into required setback.

[7] Front setbacks abutting Mountain Avenue shall be measured from the ultimate right-of-way line.

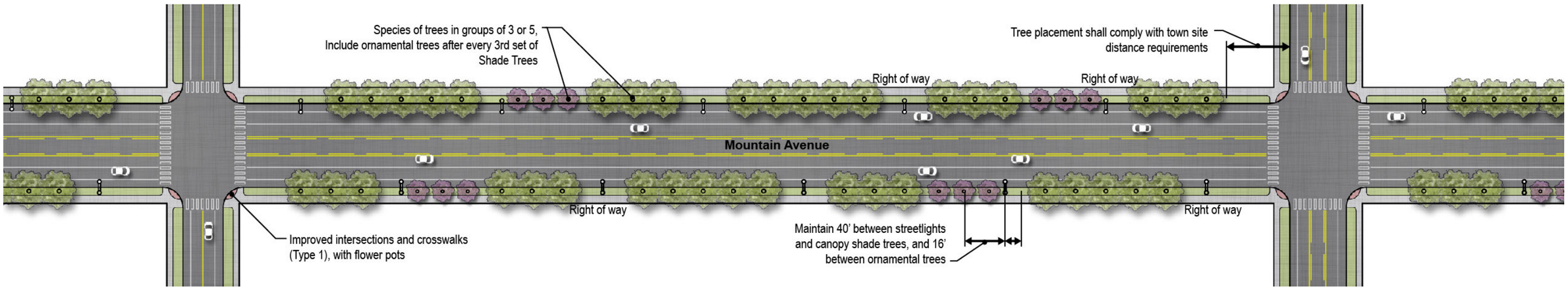
[8] Zero foot (0') front setbacks are allowed for buildings having frontage on Gateway Park Blvd located within the proposed Village Center. Setback shall be measured from the ultimate right-of way of Gateway Park Blvd.

[9] Drive thru lanes located between a public street and a building are discouraged. In situations where this condition cannot be avoided, the minimum building setback can be increased by 15 ft, and a 3 ft. high screen wall shall be installed along the length of the drive-thru lane abutting the public right-of-way. In any case, the drive thru window may not be oriented toward Mountain Avenue.



New Building Setback	Side Walk	Tree Lawn	Bike Lane	Travel Lane	Travel Lane	Turn Lane	Travel Lane	Travel Lane	Bike Lane	Tree Lawn	Side Walk	Fence Setback	Existing Estate-Lot Style Homes
30' Min. Parking Lot Setback **35'** Min.	**8'**	**8'**	**8'**	**12'**	**12'**	**19'**	**12'**	**12'**	**8'**	**8'**	**8'**	**5' Min.**	**Varies**

115' Right-of-way



Streetscape (Bottom)

8-foot tree lawns and increased building setbacks will create a streetscene that is similar to the Residential Conversion District. A combination of large deciduous canopy and flowering ornamental trees will frame the street eventually creating a welcoming tree canopy. The continued use of flowerpots on street corners is also recommended to build on Berthoud's "Garden Spot" theme.

Ultimate Street Cross Section

The ultimate street cross section is consistent with the State Highway 56 Access Control plan which includes 2 travel lanes in each direction, a center turn lane, and eight foot bike lanes. Eight foot 8' tree lawns and detached sidewalks enhance the overall aesthetic and pedestrian experience. Continuous on-street dedicated bike lanes are included. A 30-foot minimum building setback allows for appropriate landscape buffers outside of the right-of-way.

Land Uses

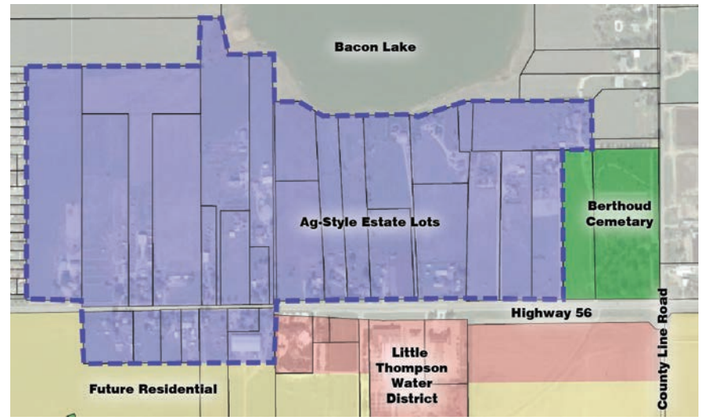
The dominant land uses fronting Mountain Avenue in this district are large lot residential/ agriculture estates and mixed-use, and Single Family residential uses are envisioned near the existing residential neighborhoods to the west.

The intent is to preserve the Ag-Style estate lots as they serve as a character and transitionary buffer between the agriculture district and the historic downtown core.

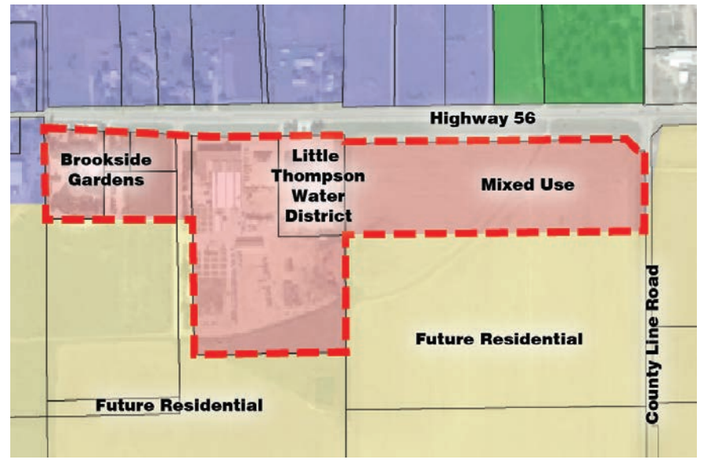
[Opposite Top] Berthoud East Ultimate Street Cross Section

[Opposite Bottom] Typical district Streetscape Diagram

[Bottom Row] Existing Ag-Style Estate Lots examples



Ag-Style Estate Lots Areas



Mixed Use Area









Site Planning Principles

Modern site planning principles include efforts to combine infrastructure required to develop from building to building and lot to lot. Sharing things like detention, parking, internal pedestrian spaces can reduce development costs, reduce the space they require, and make them more efficient and effective.

Interesting streetscene should be creating using staggered building setbacks, varied roof lines, varied spacing between individual buildings, and quality building materials that complement Berthoud's small-town character.A continuous wall of buildings with similar roof lines and identical setbacks is not allowed.

Limited access directly from Mountain Avenue creates long stretches of uninterrupted streetscapes, improves traffic flow on Mountain Ave, and increases the need for automobile access to developments from cross-streets and back streets.

Parking should not be a dominant feature. To reduce its visual presence on Mountain Avenue, off-street parking should be tucked behind and between buildings. Off-street parking areas shall not occupy more than 40% of the Mountain Avenue frontage.

Restaurant and bank drive-thrus shall be oriented away from Mountain Avenue.

[Right] Native seed and planting comes highly encouraged in this character district as an alternative to irrigated bluegrass sod

[Opposite] Perspective illustration of a Berthoud East streetscape






GCB TECH



Agriculture

Agriculture Character District

The expansive farms, big skies, distant views, and scattered farmsteads provide a pleasant separation between Interstate 25 and the Town. This separation adds to Berthoud's small-town appeal. This plan does not recommend changes to the land or land uses in this district. The primary goals are to retain the rural and agrarian character and to protect the iconic views to the Rocky Mountains.

District Extents

The Agriculture Character District extents vary on the north and south frontages.
North side of Hwy 56 - County Line Road 1 to ½ mile west of I-25
South side of Hwy 56 - ½ mile east of County Line Road 1 to ½ mile west of I-25.

Significant Features

- Views of the Front Range of the Rocky Mountains
- Farmland
- Farmsteads, barns, silos
- Silage piles and haystacks
- Windrows
- Farm fences
- Overhead powerlines
- Rural street section (no curbs)

Existing Zoning

Parcels located in Weld County are zoned Agriculture (A)

Preferred Land Uses

Primary Uses – Agriculture

Opportunities

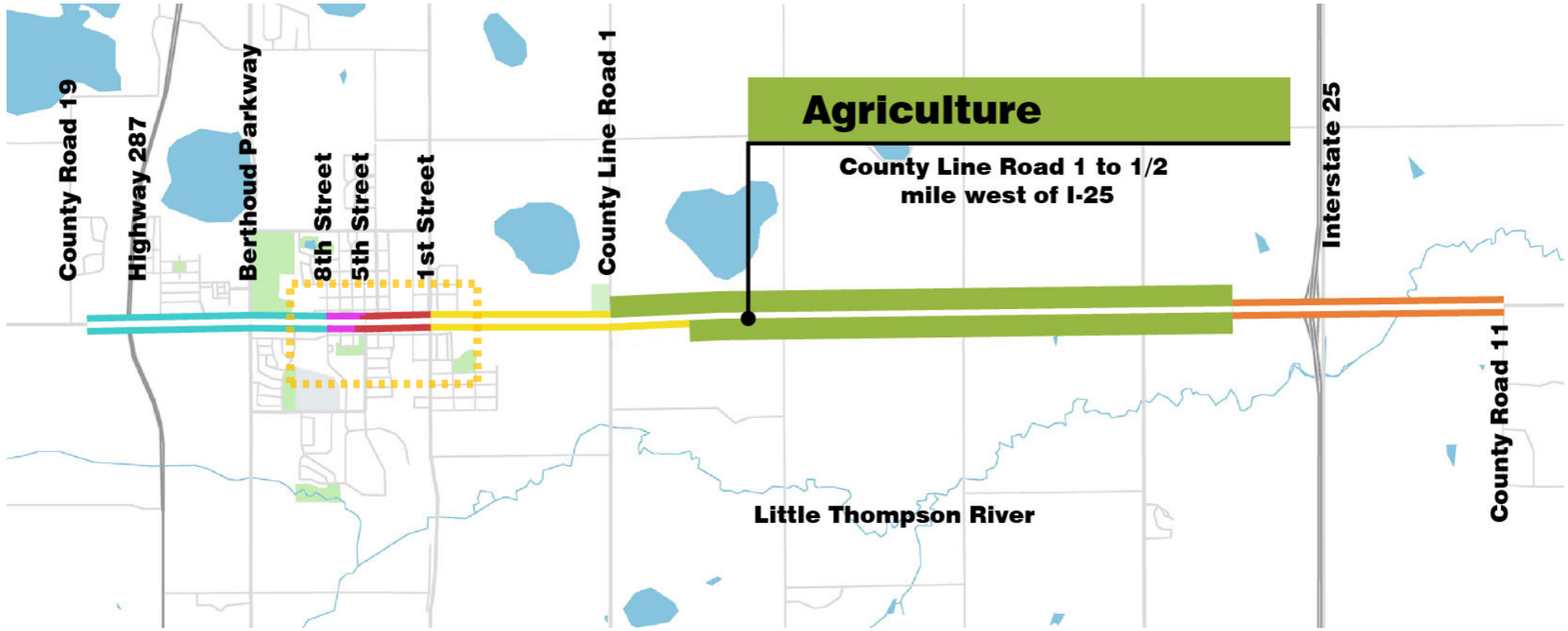
Largely undeveloped

On-Street Parking

On-street parking is not permitted on Highway 56/Mountain Avenue within this district.

Off-Street Parking

New off-street parking lots should be tucked behind and between buildings to minimize their visual presence.



Signage:

Building mounted signs and ground mounted freestanding signs with horizontal massing are preferred. Pole signs should not be permitted in this district. Internally illuminated signs are permitted but the entire sign panel may not be illuminated. Text and logos may be illuminated, but the sign panel and cabinet shall be opaque.

Opportunities:

- Unsightly silage piles covered with tarps and tires should be placed a minimum of 250 away from Highway 56, be screened from view with landscaping, or placed behind buildings and out of sight.
- New buildings will be setback a minimum of 80 feet from the right-of-way to preserve the open rural character.

[Top] Map showing the extents of the Agriculture Character District

[Opposite All] Existing photos of the Agriculture Character District

Character



Protect farming practices



Concentrated farmsteads



Trees arounding farmsteads



Windrows



Rail Fences

Major Themes



Wide treelawns, increased building setbacks



Clear separation between historic downtown and New Berthoud



View preservation

Architectural Guidelines for Agriculture District

The approximate $3^{1/2}$ mile long section of Mountain Avenue between County Line Road 1 to County Road 8 features a unique architectural style that is exemplary of Berthoud's hometown feel. Based off the agricultural business, the architecture embodies that lifestyle with classic farmhouse style homesteads. It is not recommended to change the style of this district but to enhance and compliment with a similar architectural style.

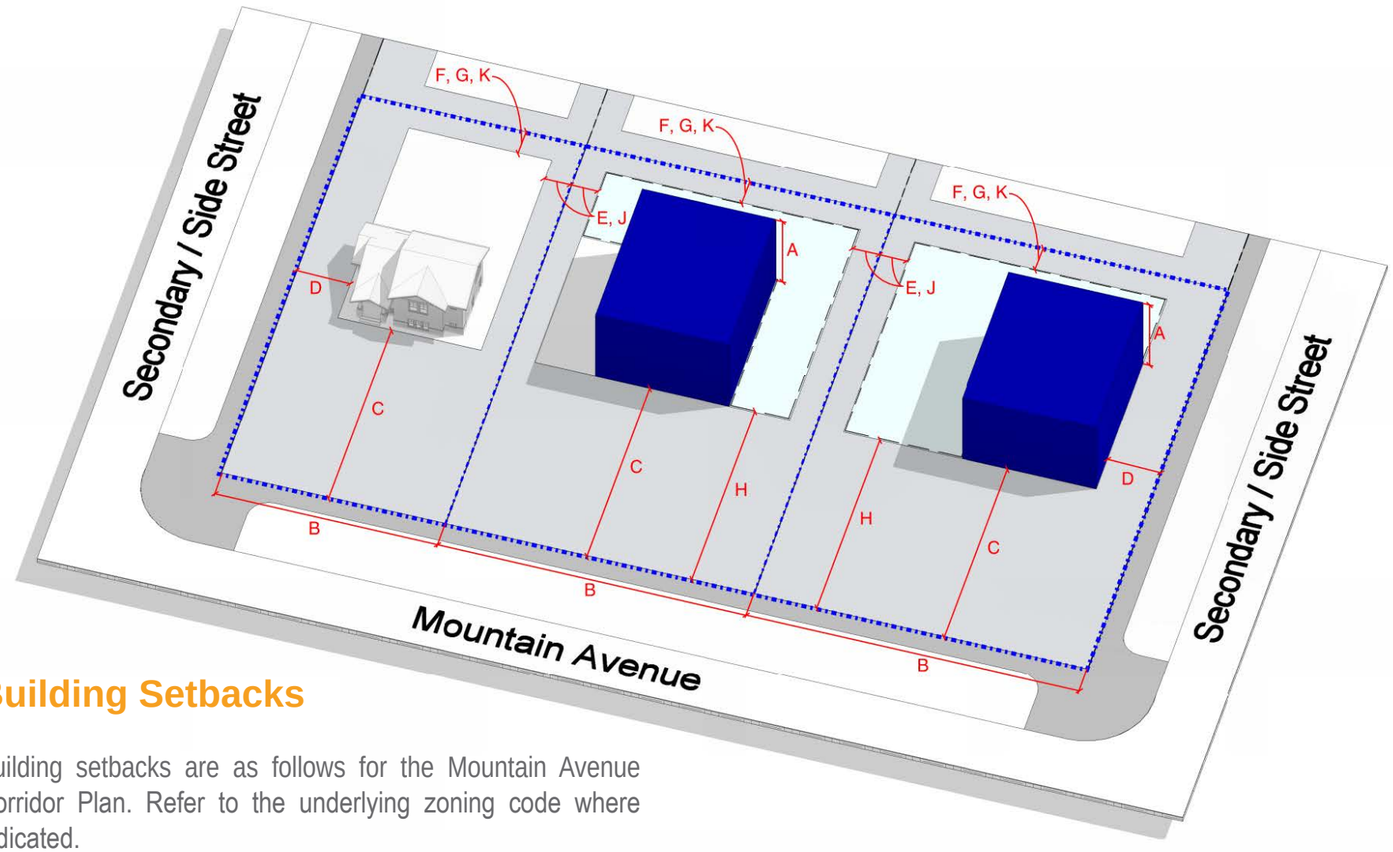
Building materials should be of residential grade and to include cement-based stucco, hardboard siding, brick, stone or decorative metal panels with concealed fasteners.

Roof lines with predominately gable end or hip and valley styles with dormers or shed roofs as secondary elements are desired. Roofing materials should be durable and impact resistant asphalt shingles or metal roofing panels. Clay and concrete tiles are not encouraged.

Primary building facade colors shall be non-reflective, muted neutral or earth tones with only small "pops" of bright, higher intensity colors. Metallic or fluorescent colors are not allowed.







Building Setbacks

Building setbacks are as follows for the Mountain Avenue Corridor Plan. Refer to the underlying zoning code where indicated.

Mountain Avenue Development Criteria

Description		Agriculture
	Density and Lot Coverage	Per Underlying Zoning
A	Building Height [5]	Maximum: 2 Stories (35 feet)
B	Minimum Lot Width	Per Underlying Zoning
	Building Orientation	Parallel to Front lot line
Building Setbacks		
C	Mountain Ave / Highway 56 [6,7]	80 ft. min
D	Secondary or side street	20 ft. min
E	Side yard (3 Stories)	NA
E	Side yard (2 Stories)	Per Underlying Zoning
E	Side yard (1 Story)	Per Underlying Zoning
F	Rear	Per Underlying Zoning
G	Rear Alley	Per Underlying Zoning
Off-Street Parking and Driveway Setbacks		
H	Mountain Ave / Highway 56 [9]	80 ft. min
I	Secondary or side street	
J	Side yard	5 ft. min, 0 ft. if shared
K	Rear	5 ft. min, 0 ft. if shared
	Max parking and driveway frontage [4]	40% lot frontage
Mountain Avenue ROW Encroachments		
	Outdoor dining areas and display areas	0 ft.
	Awnings	0 ft.
	Balconies	0 ft.
	Bay windows and building projections	0 ft.
	Building eaves	0 ft.
	Patio cover roof	0 ft.

Notes:

[1] The ground floor front facade may be recessed/setback to accommodate outdoor dining and/or outdoor display areas. Where these features are not intended, facades shall have a 0 foot front setback.

[2] A six foot minimum unobstructed clear zone shall be provided within ROW around outdoor dining areas for pedestrian circulation

[3] Balconies, bay windows and other building projections extending in to the public right-of-way shall provide 10 feet min. vertical clearance above the sidewalk elevation or finish grade.

[4] Off-street parking areas and driveways fronting Mountain Ave, Hwy 56 and/or secondary/side streets shall be screened from view from the public right of way. Screening shall be 3' min in height and shall be accomplished with berms, low walls, planting, etc. Within the Downtown Commercial District and the Residential Conversion District screening shall be accomplished with walls and/or decorative metal fences having 75% min opacity. Wall materials shall match materials used on the associated building. Unless approved otherwise, wood fences are not allowed along Mountain Ave in the Downtown Commercial District

[5] Small tower elements and roof forms/parapet walls associated with primary building entries may exceed the maximum building height by 15%.

[6] Permanent features such as steps, ramps, landings, and uncovered porches shall not extend more than 40% into required setback.

[7] Front setbacks abutting Mountain Avenue shall be measured from the ultimate right-of-way line.

[8] Zero foot (0') front setbacks are allowed for buildings having frontage on Gateway Park Blvd located within the proposed Village Center. Setback shall be measured from the ultimate right-of way of Gateway Park Blvd.

[9] Drive thru lanes located between a public street and a building are discouraged. In situations where this condition cannot be avoided, the minimum building setback can be increased by 15 ft, and a 3 ft. high screen wall shall be installed along the length of the drive-thru lane abutting the public right-of-way. In any case, the drive thru window may not be oriented toward Mountain Avenue.









[Top] Ultimate street cross section

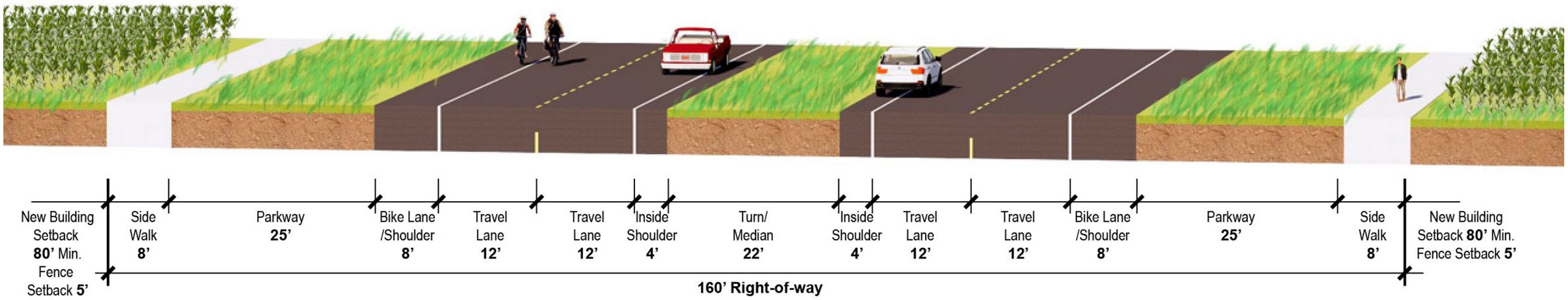
[Bottom] Streetscape diagram

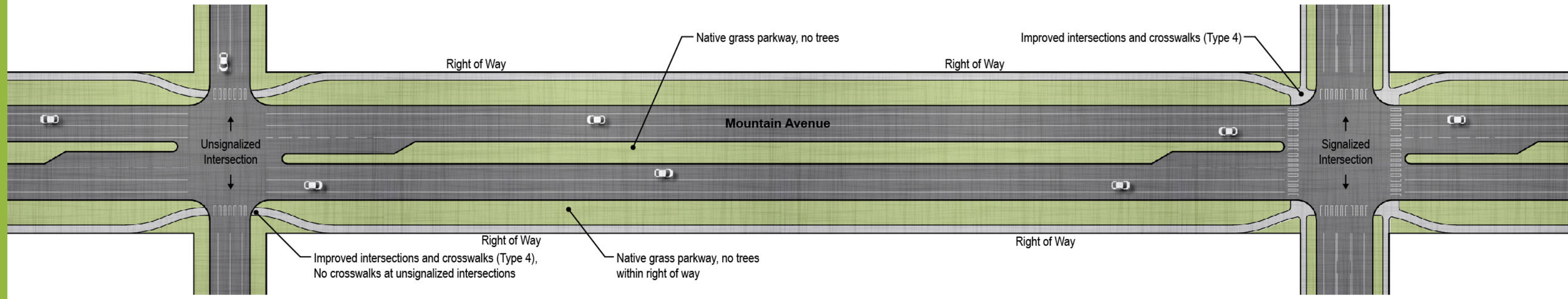
Ultimate Street Cross Section

The ultimate street cross section deviates slightly from the State highway 56 Access Control Plan. It includes two travel lanes in each direction, a recessed center median/turn lane, and 8' bicycle lane/shoulder which is consistent with the Access Control Plan, however an additional 33 feet is recommended on both sides of the road to allow for a generous tree lawn/parkway and 8' sidewalks.

Streetscape

Landscaping within the Hwy 56 right-of-way will be limited to non-irrigated native seed. Street trees and streetlights are not required unless parcels are annexed to the Town and developed.





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New Berthoud

New Berthoud Character District

New Berthoud straddles the I-25/Hwy 56 interchange and for people traveling on I-25 this district will form their first impression of the Town. The lasting impression should relate to “Berthoud Proper” and offer a fresh new twist.

In time, a variety of commercial and mixed-use developments will pop up in this area and each should contribute positively to the Town’s image. Generous landscape buffers are recommended along Hwy 56 and I-25 and are of critical importance in tying individual developments together visually. Streetscapes and Town signage should be distinct and attractive.

This district should not appear as a truck-stop however, these types of uses are supported by the plan if they are attractive, appropriately lighted, and well screened from the public right-of-way.

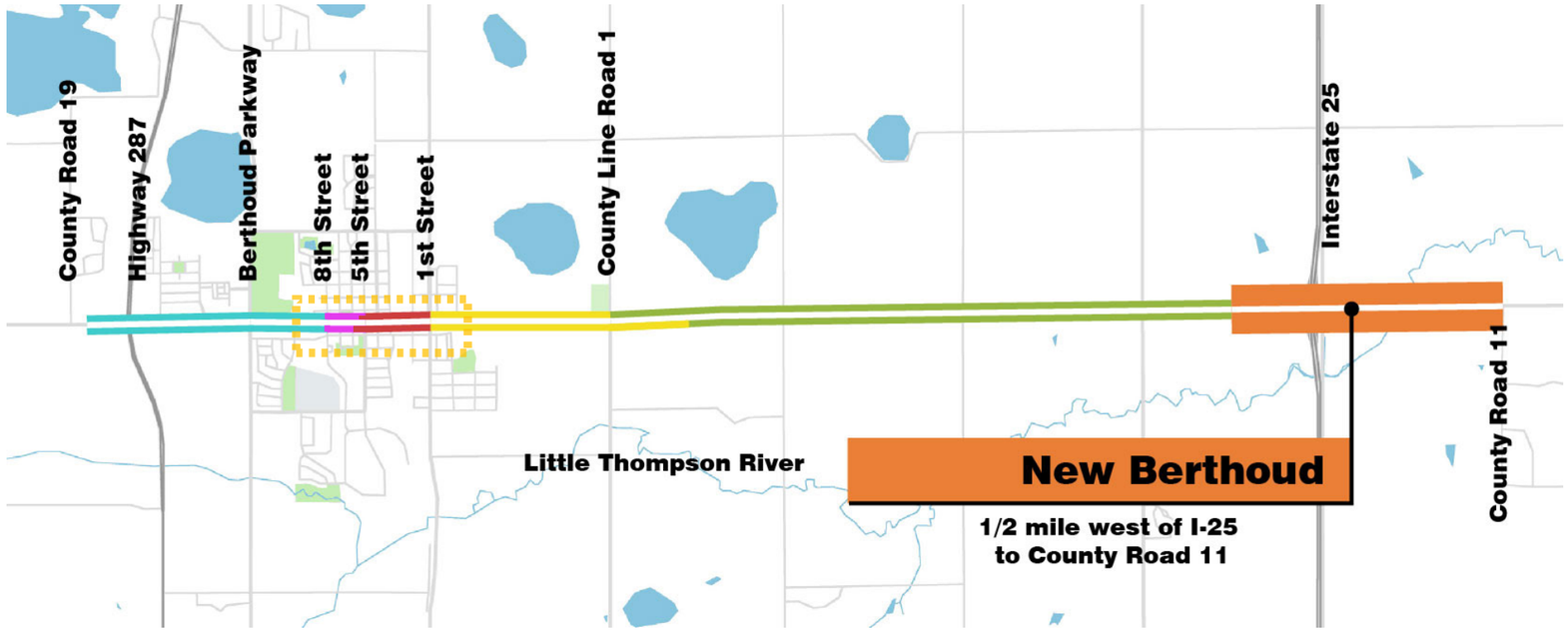
District Extents
The Agriculture Character District extends ½ mile west of I-25 to County Road 11

Significant Features
- Views of the Front Range of the Rocky Mountains
- I-25/Hwy 56 Interchange – to be reconstructed
- Proposed Park-n-Ride
- Proposed Wilson Ranch Development
- Love’s Gas/Convenience Store
- Farmland
- Overhead Powerlines on the south side of Hwy 56
- Little Thomson River crossings

Existing Zoning
Parcel located in the Town of Berthoud are zoned General Commercial (C2), Transition (T), and Planned Unit Development (Wilson Ranch PUD, Wilbert Hart Subdivision, Betz Baird Subdivision)

Parcels located in Weld County are zoned Agriculture (A)

Preferred Land Uses:
Commercial, Mix-Use



On-Street Parking:
On-street parking is not permitted on Highway 56/Mountain Avenue within this district.

Off-Street Parking:
New off-street parking lots should be tucked behind and between buildings to minimize their visual presence.

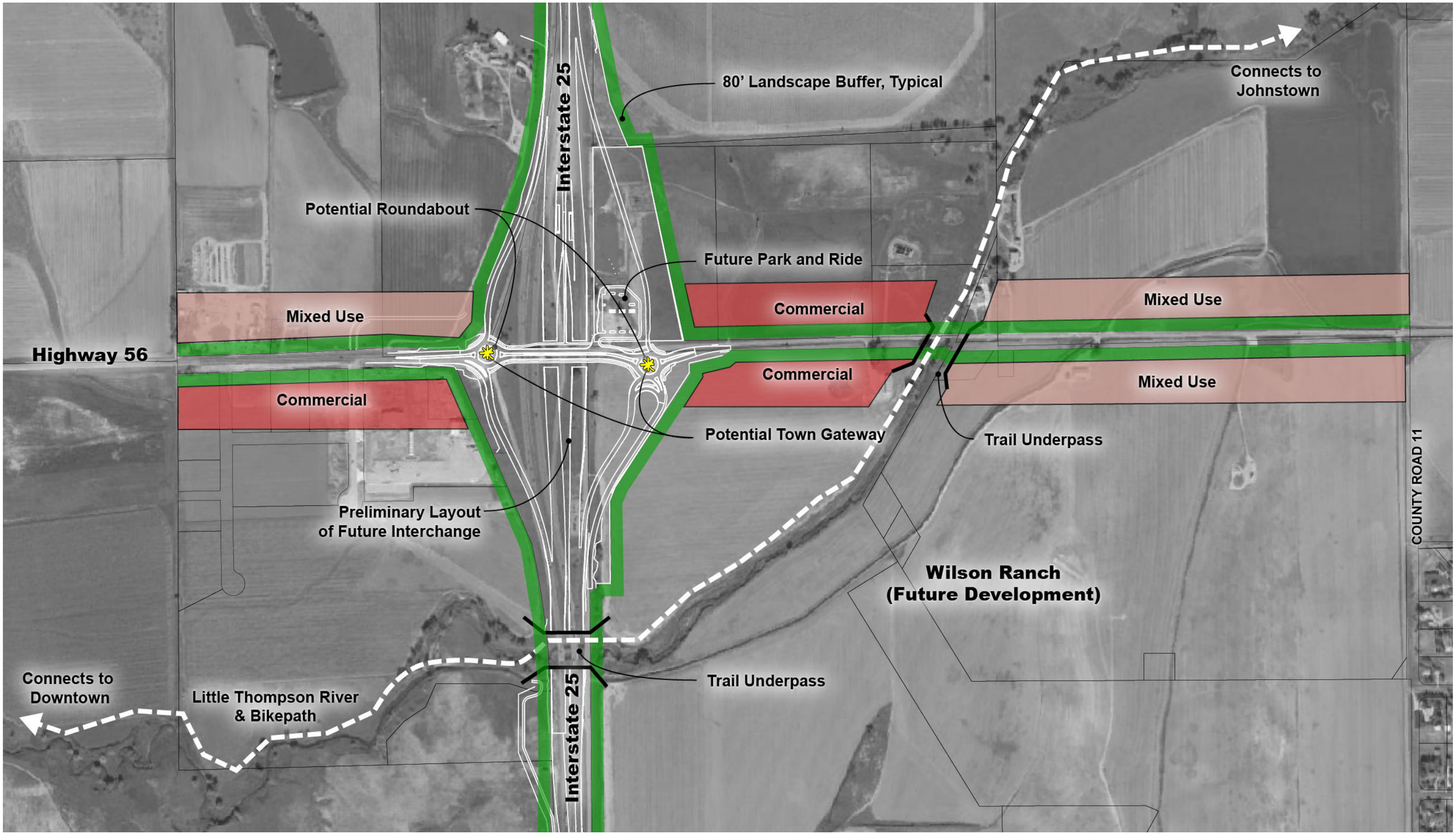
Signage:
Building mounted signs and ground mounted freestanding signs with horizontal massing are preferred. Pole signs should not be permitted in this district. Internally illuminated signs are permitted but the entire sign panel may not be illuminated. Text and logos may be illuminated, but the sign panel and cabinet shall be opaque.

Opportunities

- 30% plans for the future I-25/Hwy 56 interchange include two roundabouts at the on/off ramp intersections and a Town gateway sign could be placed in one (or both) of the center islands along with attractive well-maintained plantings.
- The future interchange bridge design and colors should be unique to the Town of Berthoud.
- New buildings will be setback a minimum of 80 feet from the Hwy 56 and I-25 rights-of-way. These setbacks provide spaces for attractive streetscapes and proper buffering of adjacent developments.
- Pedestrian and bicycle connectivity of this district to the rest of the Town is important. The Little Thomson River trail should be extended to the eastern Town limits, and trail underpasses should be incorporated where the Little Thompson River crosses I-25 and Country Road 44.

[Opposite] Map showing the extents of the New Berthoud Character District

[Below] New Berthoud's Concept and Opportunities Map



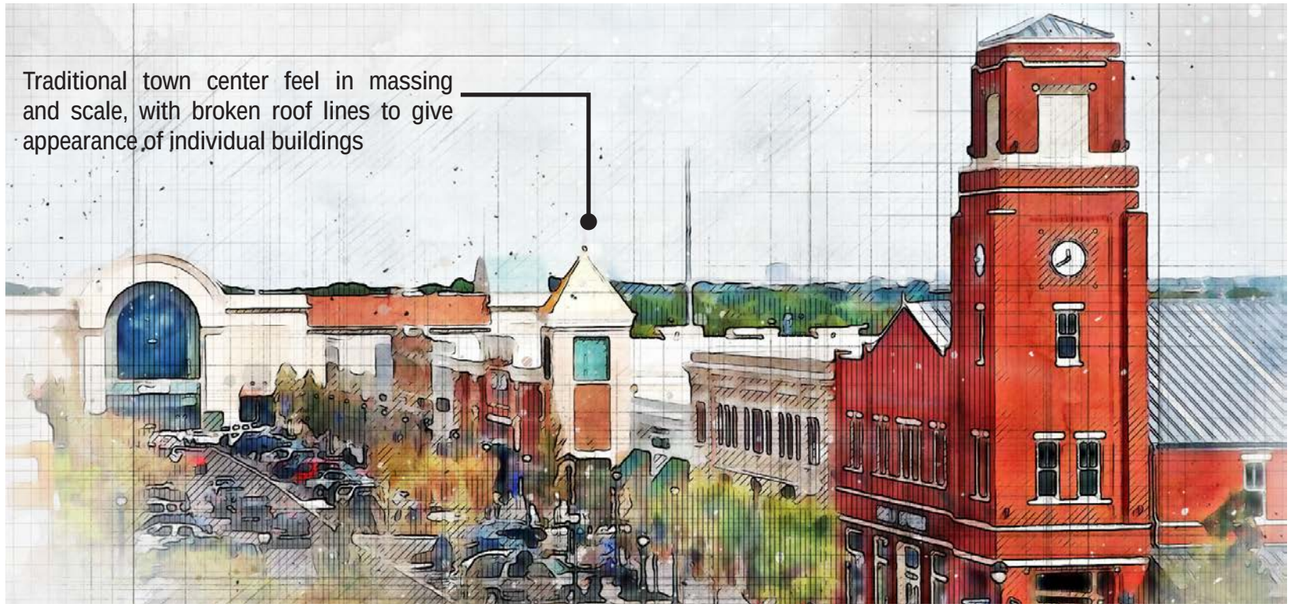
Architectural Guidelines for New Berthoud District

Expansive master planned developments are anticipated in the New Berthoud District with large scale retail/ lifestyle uses near the 1-25/Mountain Avenue interchange, then transitioning to mixed-use and residential developments further away.

The configuration and massing of these large buildings should give the appearance of individual buildings in the manner of traditional town centers.

Wall and roof lines should be broken to avoid continuous planes, giving the appearance of individual buildings being built over an extended period of time but with a consistent architectural vocabulary.

With larger buildings, pedestrian connections and easily identifiable entries are key. Pedestrian approaches should be well-defined with large overhangs or dynamic canopy elements provided for weather protection.



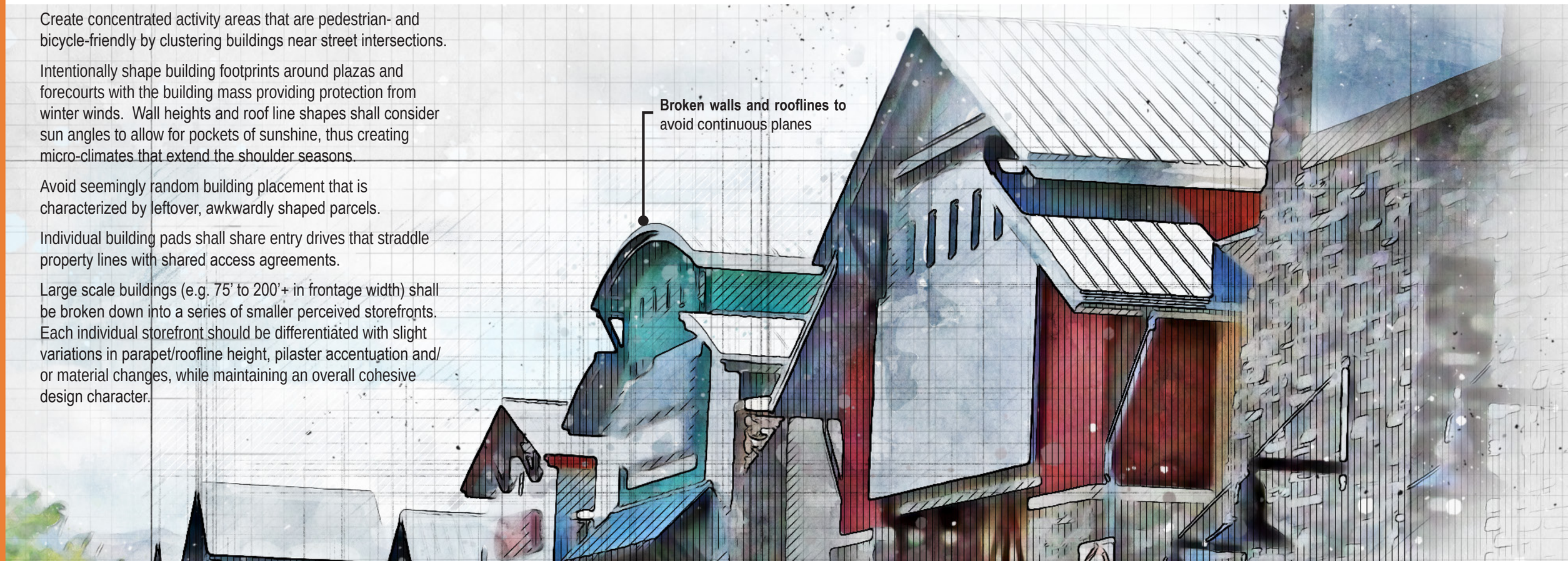
Create concentrated activity areas that are pedestrian- and bicycle-friendly by clustering buildings near street intersections.

Intentionally shape building footprints around plazas and forecourts with the building mass providing protection from winter winds. Wall heights and roof line shapes shall consider sun angles to allow for pockets of sunshine, thus creating micro-climates that extend the shoulder seasons.

Avoid seemingly random building placement that is characterized by leftover, awkwardly shaped parcels.

Individual building pads shall share entry drives that straddle property lines with shared access agreements.

Large scale buildings (e.g. 75’ to 200’+ in frontage width) shall be broken down into a series of smaller perceived storefronts. Each individual storefront should be differentiated with slight variations in parapet/roofline height, pilaster accentuation and/ or material changes, while maintaining an overall cohesive design character.





Group elements such as trash/ recycling enclosures with service/ delivery access and use buildings to screen from street view.

Orient primary and secondary entries towards street and thus pedestrian connections.

Cluster buildings to share exterior gathering spaces and other features.

Building clusters to address primary street intersections to activate corner.

Clear and direct pedestrian connections from sidewalk along street to entries.



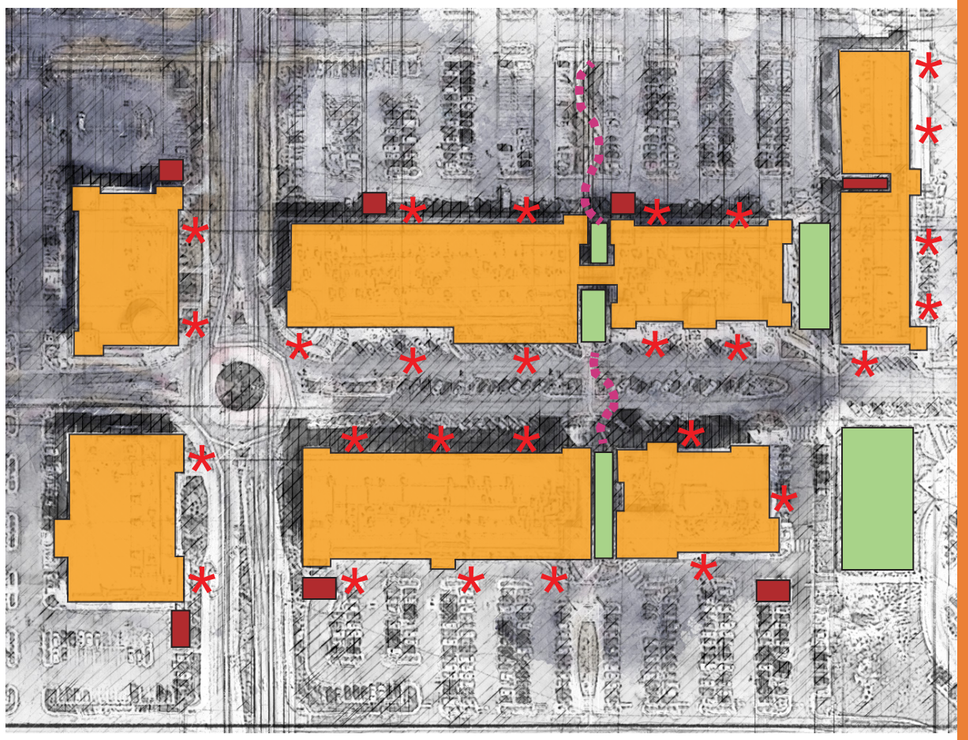
Design large scale buildings to have scale-defining elements that reduce the perceived size.

Subtle cornice details terminate the main field wall while more prominent overhangs cap the defining architectural wall elements.

Use transom windows to direct natural light deeper into the space.

Pedestrian-scale canopy elements provide shelter from adverse weather conditions, while defining the break between the base and the body of the building.

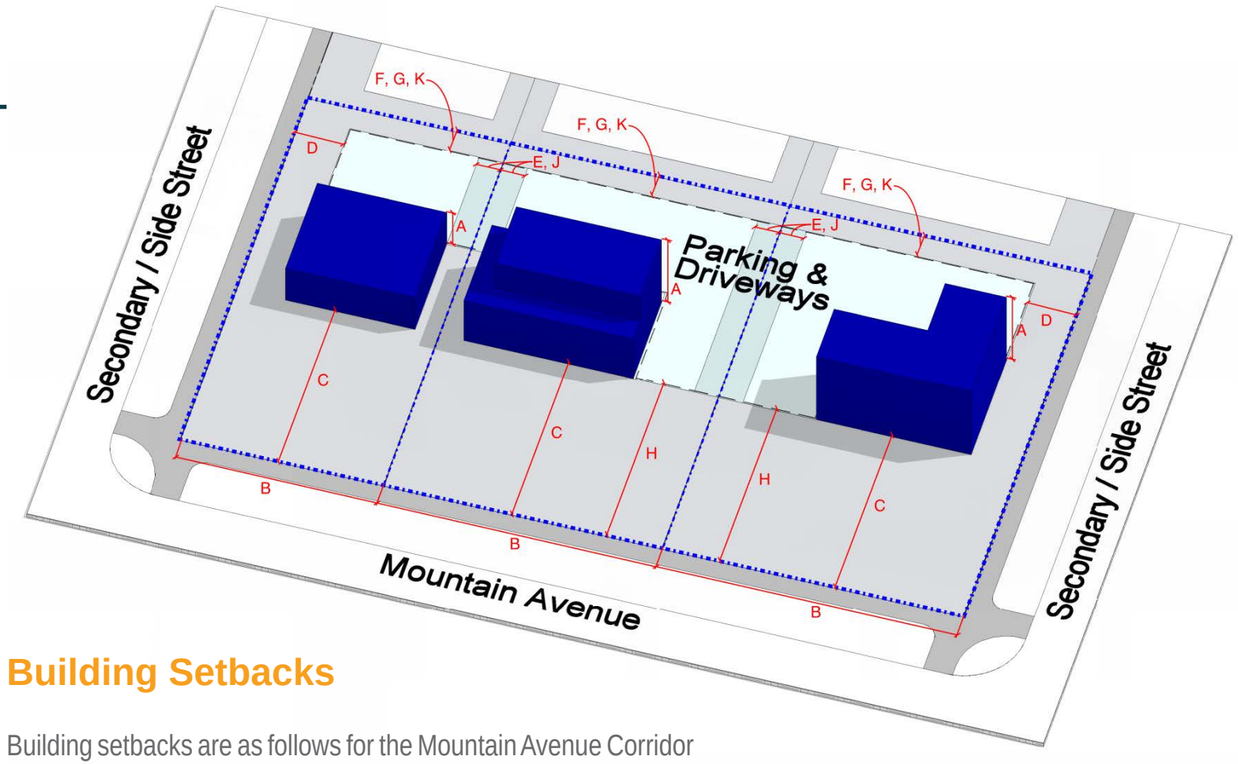
Create a first floor storefront base with large expanses of vertically oriented glass (more than 50% of facade area).



Architectural Guidelines for New Berthoud District







Building Setbacks

Building setbacks are as follows for the Mountain Avenue Corridor Plan. Refer to the underlying zoning code where indicated.

Material and Colors

The primary building material should be full depth masonry. The masonry color should reflect the historic Berthoud style of muted red earth tones. Use of historic masonry detailing such as articulated lintels, articulated caps, and horizontal articulation lines is required.

The primary building material shall constitute at least 50% of the total wall area; excluding the glazing area of the façade. (Some varieties of historic Berthoud architectural typology could be excepted under planning staff discretion).

Secondary building materials shall be of high quality, durable products. Refer to the Berthoud Architectural Design Guidelines for architectural compliance options based on Place Type Suburban Commercial.

Mountain Avenue Development Criteria

Description		New Berthoud
	Density and Lot Coverage	Per Underlying Zoning
A	Building Height [5]	Maximum: 3 Stories (40 feet)
B	Minimum Lot Width	Per Underlying Zoning
	Building Orientation	Parallel to Front lot line
Building Setbacks		
C	Mountain Ave / Highway 56 [6,7]	80 ft. min
D	Secondary or side street	20 ft. min
E	Side yard (3 Stories)	Per Underlying Zoning
E	Side yard (2 Stories)	Per Underlying Zoning
E	Side yard (1 Story)	Per Underlying Zoning
F	Rear	Per Underlying Zoning
G	Rear Alley	Per Underlying Zoning
Off-Street Parking and Driveway Setbacks		
H	Mountain Ave / Highway 56 [9]	80 ft. min
I	Secondary or side street	
J	Side yard	5 ft. min, 0 ft. if shared
K	Rear	5 ft. min, 0 ft. if shared
	Max parking and driveway frontage [4]	40% lot frontage
Mountain Avenue ROW Encroachments		
	Outdoor dining areas and display areas	0 ft.
	Awnings	0 ft.
	Balconies	0 ft.
	Bay windows and building projections	0 ft.
	Building eaves	0 ft.
	Patio cover roof	0 ft.

Notes:

[1] The ground floor front facade may be recessed/setback to accommodate outdoor dining and/or outdoor display areas. Where these features are not intended, facades shall have a 0 foot front setback.

[2] A six foot minimum unobstructed clear zone shall be provided within ROW around outdoor dining areas for pedestrian circulation

[3] Balconies, bay windows and other building projections extending in to the public right-of-way shall provide 10 feet min. vertical clearance above the sidewalk elevation or finish grade.

[4] Off-street parking areas and driveways fronting Mountain Ave, Hwy 56 and/or secondary/side streets shall be screened from view from the public right of way. Screening shall be 3' min in height and shall be accomplished with berms, low walls, planting, etc. Within the Downtown Commercial District and the Residential Conversion District screening shall be accomplished with walls and/or decorative metal fences having 75% min opacity. Wall materials shall match materials used on the associated building. Unless approved otherwise, wood fences are not allowed along Mountain Ave in the Downtown Commercial District

[5] Small tower elements and roof forms/parapet walls associated with primary building entries may exceed the maximum building height by 15%.

[6] Permanent features such as steps, ramps, landings, and uncovered porches shall not extend more than 40% into required setback.

[7] Front setbacks abutting Mountain Avenue shall be measured from the ultimate right-of-way line.

[8] Zero foot (0') front setbacks are allowed for buildings having frontage on Gateway Park Blvd located within the proposed Village Center. Setback shall be measured from the ultimate right-of way of Gateway Park Blvd.

[9] Drive thru lanes located between a public street and a building are discouraged. In situations where this condition cannot be avoided, the minimum building setback can be increased by 15 ft, and a 3 ft. high screen wall shall be installed along the length of the drive-thru lane abutting the public right-of-way. In any case, the drive thru window may not be oriented toward Mountain Avenue.







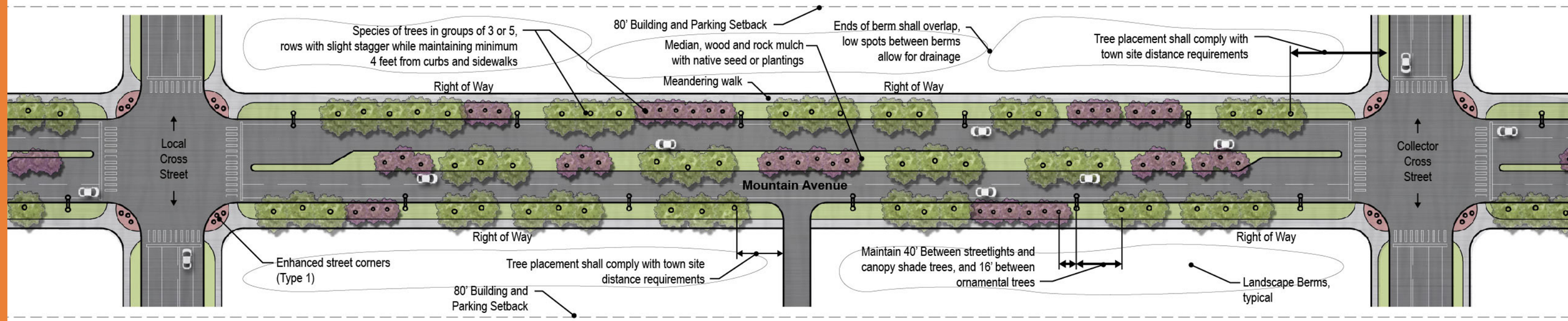
Streetscape

Water conservation is becoming more and more important in Colorado, and the Town's public streetscape improvements should move in this direction. Within this district, landscaping in tree lawns will be limited to non-irrigated native seed and groupings of shade trees and ornamental flower trees. Medians will also include a mix of shade trees and ornamental flowering trees. Provision of additional understory plantings, within the medians, will depend on the Town's ability to maintain them. The continued use of flowerpots and street corner treatments will visually tie this area to downtown Berthoud. Automatic underground irrigation drip systems (or similar) are recommended for streetscape improvements.

[Top Left] View from Highway 56 looking south east

[Bottom] Streetscape diagram

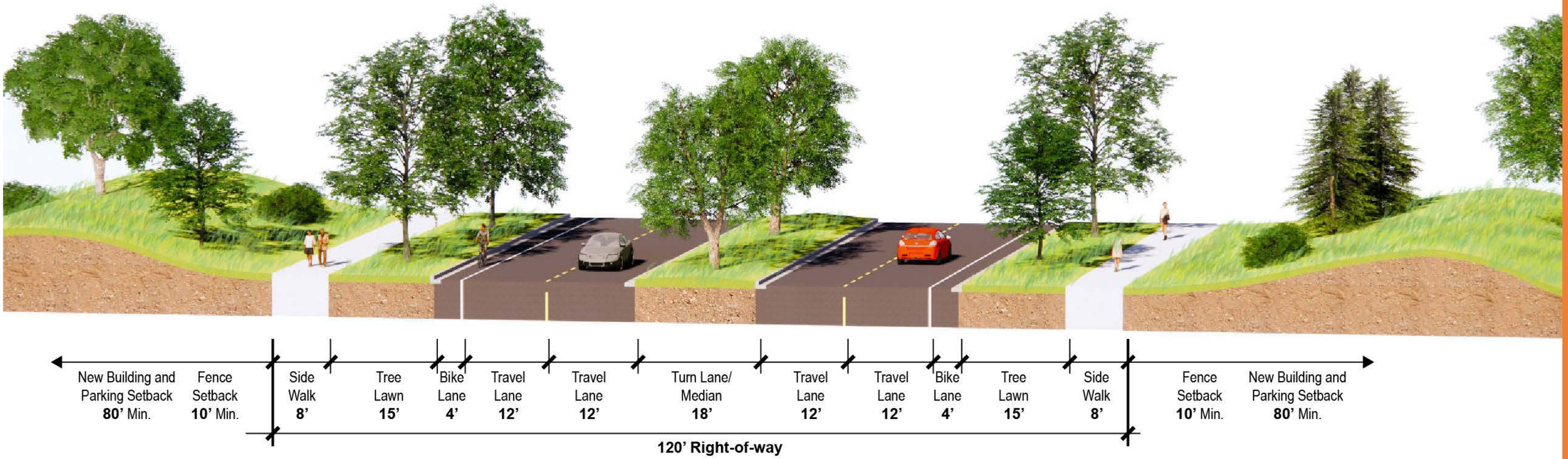
[Opposite] Ultimate Street Cross Section



Ultimate Street Cross Section

The ultimate street cross section deviates slightly from the State Highway 56 Access Control Plan. The street itself is identical to the Access Control Plan with 2 travel lanes in each direction, a raised center median/turn lane, and 4-foot dedicated bike lanes. Sidewalks widths have been reduced to 8 feet and tree lawns will be 15 feet wide to enhance the overall aesthetic and pedestrian experience. Building and parking setbacks are increased to 80-feet minimum to allow for appropriate landscape buffers outside of the right-of-way. The 80-foot setback areas shall also be bermed, where possible, to soften views of adjacent development. Berms shall be long, elegantly shaped and have overlapping ends. Tops of berms shall be a minimum of 4 feet above the closest street edge of Hwy 56.

Stormwater detention basins are not permitted within the 80-foot setback.



1.3 Supplemental Information

[All This Page] Some charming examples of existing street furniture, signage, and other interesting features



Historic hitching post



Historic gas pump



Custom locally fabricated bike rack



A-frame signs



Landscape features



Forms + Surfaces Cordia Bench



Sitescapes Athens Bike Rack



Kornegay Design Larkspur Planter Pot



Thomas Steele Arcadia Trash & Recycle Receptacle



Urban Effects 3P Avenue Bollards

Preferred Site Furniture

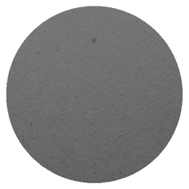
Several design elements are recommended to establish the Town's identity, and street furniture is one of them. During the public outreach process members of the community wanted to avoid the use of high tech/modern looking street furniture. Others said it was important to use high quality commercial grade products that are comfortable and stylistically compatible with Berthoud's small-town character. Recommended site furnishings are shown above. Existing street furniture should be removed and replaced, as funding allows.

Colors

Recommended colors for street furniture are neutral and earth tone colors, as they are believed to be representative of the character of the town. These colors can be used on street furniture, colored concrete, private decorations, as well as the gateway and wayfinding signs seen in section 2.0 of this corridor plan.



Brown



Charcoal



Light Gray



Light Green



Tan

Streetlights and Accessories

Ornamental streets lights exist along both sides of Mountain Avenue between 8th Street and 1st Street. In general, poles with two light fixtures are used near intersections and poles with one light fixture are used in other locations. Most community members like the existing light fixtures and would like to retain them and use them in other areas. This plan supports using these lights along Mountain Avenue and offers another lighting option that could be used on the 400 & 500 blocks of 3rd Street, the 300 block of Massachusetts, alleyways, and the proposed Village Center on Gateway Park Blvd.

Interesting and creative elements are also encouraged including: painted utility boxes, interesting cross-walks, wall murals, whimsical seating opportunities, inviting bus stops, etc. However, things can be over done and these items should used strategically.



Landscape Forms Ashbery Area Light



Pedestrian and street light banners



Detail retrofit



Hanging flower baskets



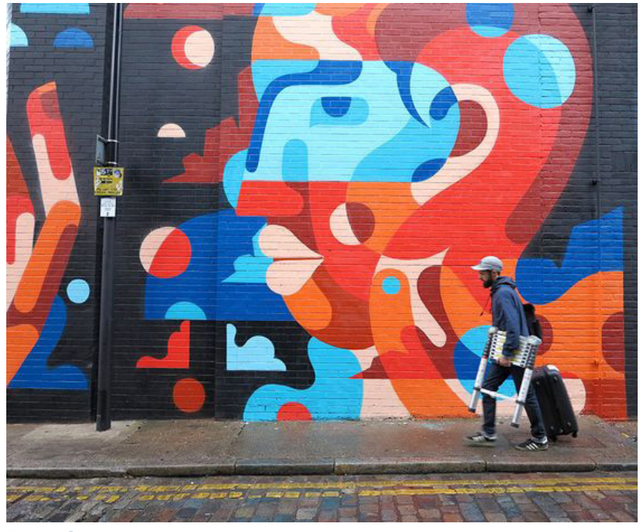
Updated Tranfort bus stations



Painted utility boxes



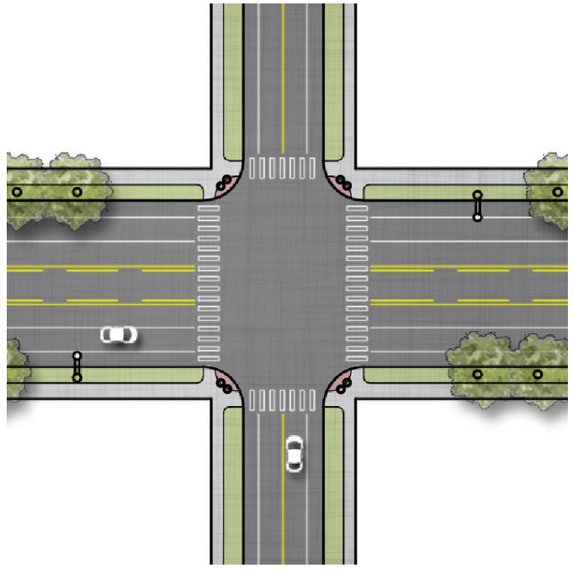
Painted artistic crosswalks

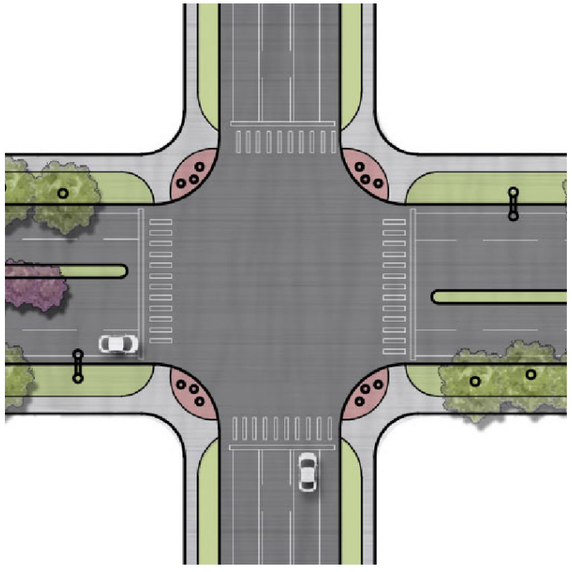


Murals



Custom quirky furniture

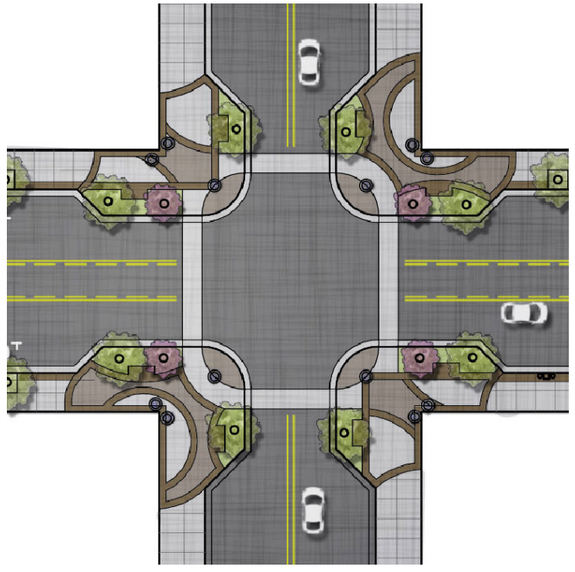


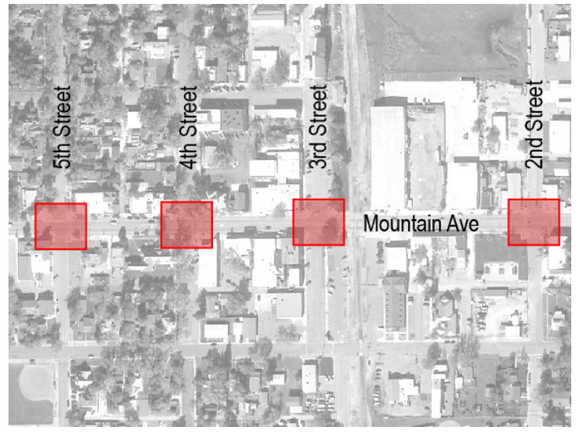


Street Corners Type 1

Type 1 Street Corners are simple, inexpensive, and is the predominant type used in the Mountain Avenue Corridor. It incorporates directional ramps, a small amount of colored concrete between the ramps, planter pots on each corner, and painted cross-walks. Type 1 corners are featured in the following districts: Commercial West, Residential Conversion, Commercial East, and New Berthoud.



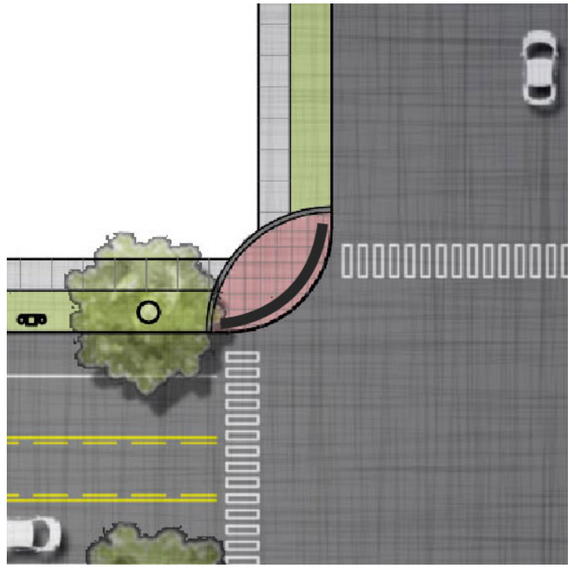




Street Corners Type 2

Type 2 Street Corners are spacious and provide places for people to linger and socialize. They include bumpouts, decorative pavers, art walls, planting areas, benches, trash receptacles, lighting, planter pots, directional ramps, and enhanced cross-walks. Type 2 corners recommended in the Downtown Commercial Character District.

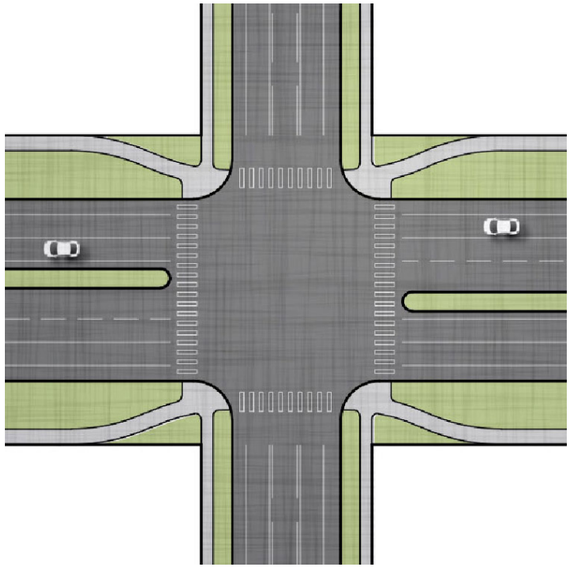




Street Corners Type 3

Type 3 Street Corners are used exclusively on the corners of Fickel Park, and they feature larger colored concrete pedestrian areas connecting to the internal park trails and the perimeter walk. Broad corner ramps are envisioned along with painted crosswalks.





Street Corners Type 4

Type 4 Street Corners are very simple and inexpensive and are used exclusively in the Agriculture Character District. Because we are recommending minimal impacts or changes to this district, these intersections are very simple and functional with no added details. Corner ramps and painted crosswalks are recommended.



Bicycles

Recreational bicycle trails are an important part of any healthy, well-connected community. Providing the residents of Berthoud with safe, low-stress bicycle routes is something that residents were very interested in. Though several bicycle trails exist today, several connections and destinations are still yet to be completed.

One concern along the length of Mountain Avenue/ Highway 56 is that portions of the corridor are either unable to accommodate bicycle lanes or they do not feel safe. Within the downtown area, Mountain Avenue is too narrow to provide on-street bike lanes. In other more rural areas, speed limits are high and the shoulder too narrow to feel comfortable.

Several alternative routes are suggested to make Berthoud a more connected and bicycle friendly town.







[Right Top] Arterial roads with high speed traffic, without dedicated bicycle lanes or wide shoulders are uncomfortable for cyclists to use comfortably and safely

[Right Middle] Local roads have less traffic and are more comfortable for cyclists.

[Right Bottom] Off-Street bicycle trails are still the preferred methoud of travel for cyclists

[Bottom Middle and Left] Custom bicycle racks fabricated and installed by residents of Berthoud. One of many elements that add to the charm of the town.





Massachusetts & Welch Avenue

The streets that run parallel to Mountain Avenue, particularly within the Downtown area, are excellent alternate routes to Mountain Avenue, which is too narrow between 1st Street and 8th Street to accommodate dedicated on-street bicycle lanes. Welch Avenue represents a particularly strong east/west bikeway route because it has the potential to provide a continuous connection through Town from Meadowlark Drive (or possibly 287) to County Line Road and beyond.

Local Streets with Shared Bicycle Lanes

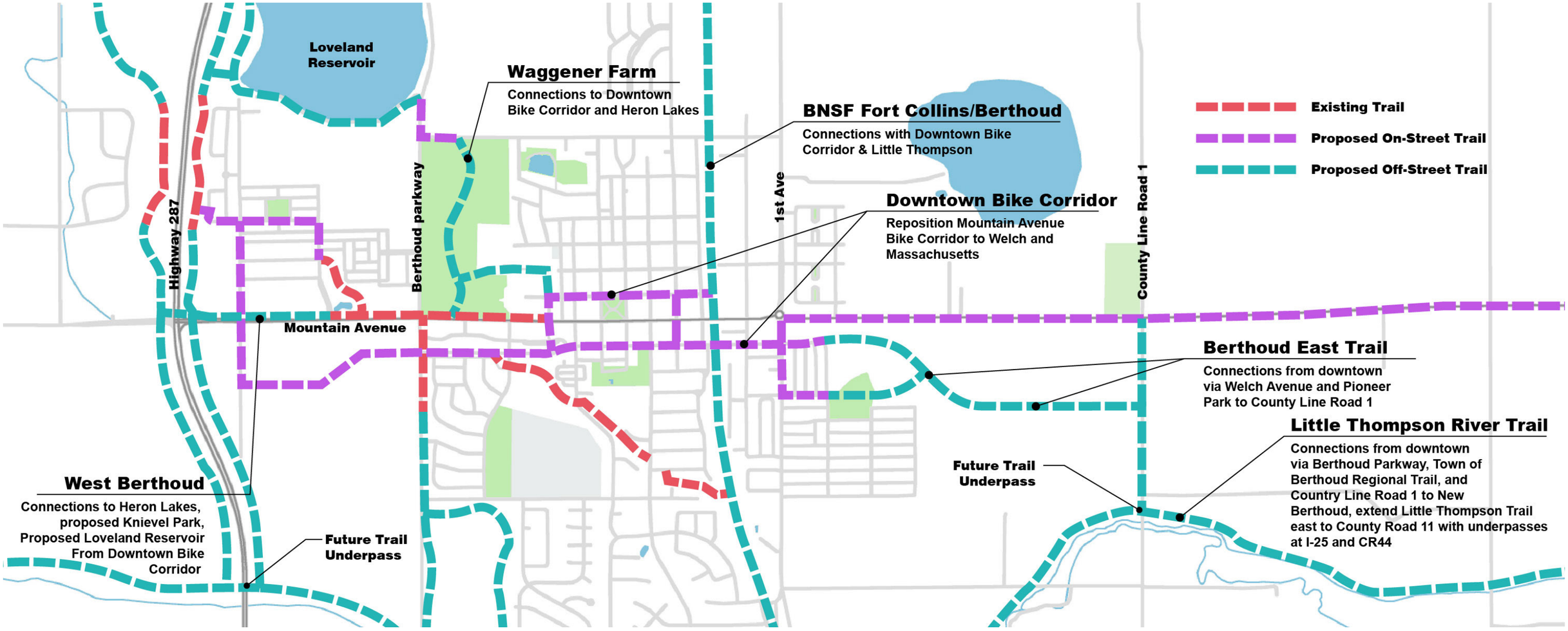
Local streets are great ways to use existing infrastructure to create connected bicycle corridors. They are often low-speed and minimal traffic. Dedicated bicycle lanes are unnecessary, and the scenery is often very pleasant.

Highways and Arterial Street

Streets with dedicated bicycle lanes or wide shoulders, that accommodate high speed traffic can be uncomfortable for cyclists to use safely. However, they are desirable routes for bicycle commuters. Where space allows, an off-street multi-use trail (8' width minimum) is recommended along these streets to accommodate pedestrians and bicyclists.

Off-Street Bicycle Trails

While on-street bicycle corridors are a great alternative bicycle route, off-street trails are often still the preferred method of travel. The exposure to nature or areas of town you might not otherwise see is a great perk. These trails often follow riparian corridors or even existing railroads.



2.0 Signage Plan

Overview

Berthoud is known as a charming rural town, a creative community, and as "The Garden Spot, where good things grow". The 2014 Comprehensive Plan describes Berthoud as "A small progressive community which endeavors to provide the quality of life enjoyed by past and present generations while ensuring its position for the future within the dynamic Front Range economic corridor. A town that works together to control its own destiny by being proactive in planning for future growth while preserving and enhancing its rural character."

The Town's signage should be a reflection of the its characteristics described above.

- The scale of the signs should reflect the small-town rural character
- Signs, and their setting, should reinforce the town's Garden Spot image. Beautiful gardens are composed of clusters and layers of beautiful flowers, plantings and trees.
- "Working together" suggests many individuals working together to support the Town's common goals.
- "Progressive" suggests something new and forward looking.

"Although Berthoud has evolved and grown considerably since its founding in 1878, it has retained the distinct feeling and character of a small rural town in the midst of the fast-growing Northern Front Range. This atmosphere is one of the most appealing characteristics of Berthoud and is a major factor in attracting new residents and businesses." – Chamber of Commerce.







[Right Top] Existing town gateway sign at the roundabout at 1st Street and Mountain Avenue

[Left Bottom] A concept for a potential town gateway at a predominant street corner

Gateway Opportunities

Gateway signs are located around the Town's perimeter at significant street intersections providing direct access to Downtown Berthoud and other local destinations. The map on the right illustrates recommended gateway locations.



Colors

Color Group 1 is made up of earth tones and subdued colors. This color scheme is inspired by colors found on the high plains of Colorado in summertime.

Color Group 2 is a collection of vibrant colors inspired by the Town's "Garden Spot" image.

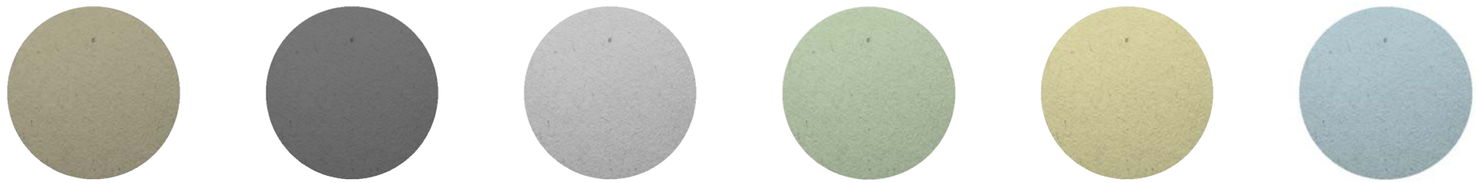
[Right Top] Potential Gateway Locations

[Right Middle and Bottom] Gateway color options

[Opposite Left] Corner Sign with Color Group Option 1

[Opposite Right] Roundabout Sign with Color Group Option 2

Color Group Option 1



Brown | Charcoal | Light Gray | Light Green | Tan | Blue

Color Group Option 2



White | Light Green | Green | Dark Green | Blue | Yellow | Red

Gateway Types

Each intersection is unique and the chosen sign type will depend on the budget, type of intersection (traditional vs roundabout), availability of space, visibility and other physical conditions.

Roundabout Signs will only be used in roundabouts and the “BERTHOUD” sign will be oriented towards predominant traffic flows entering Town. The vertical sign elements will be placed in arced groupings like dominos, and the groupings will be layered within and around the roundabout to create an ever-changing scene as people drive through the roundabout. Low colorful plantings are recommended within in the roundabout to protect views of the layered vertical elements.

Corner Signs can be used at traditional intersections and at roundabouts. The signs don’t require as much space because the vertical elements are arranged in a single sinuous row which can vary in length.

Some of these signs may be installed within CDOT right-of-way or in close proximity. In these instances, clearance zone, lighting, and “breakaway” requirements for signs will need to be confirmed with CDOT.

Materials

The vertical elements that make up the sign could be fabricated from steel, wood, or recycled composite materials. The vertical elements would be painted various colors and embedded in a concrete footing that is recessed below grade.

The word “BERTHOUD” will be internally illuminated steel channel letters. Letters faces will be constructed from white translucent acrylic. The sides and back of the letters will be opaque and painted black. LED lights will be used for the internally illuminated letters.

Ground mounted “wall lights” or “uplights” could be used to illuminate the vertical elements. Placement and orientation of sign lights cannot interfere with driver visibility and safety.

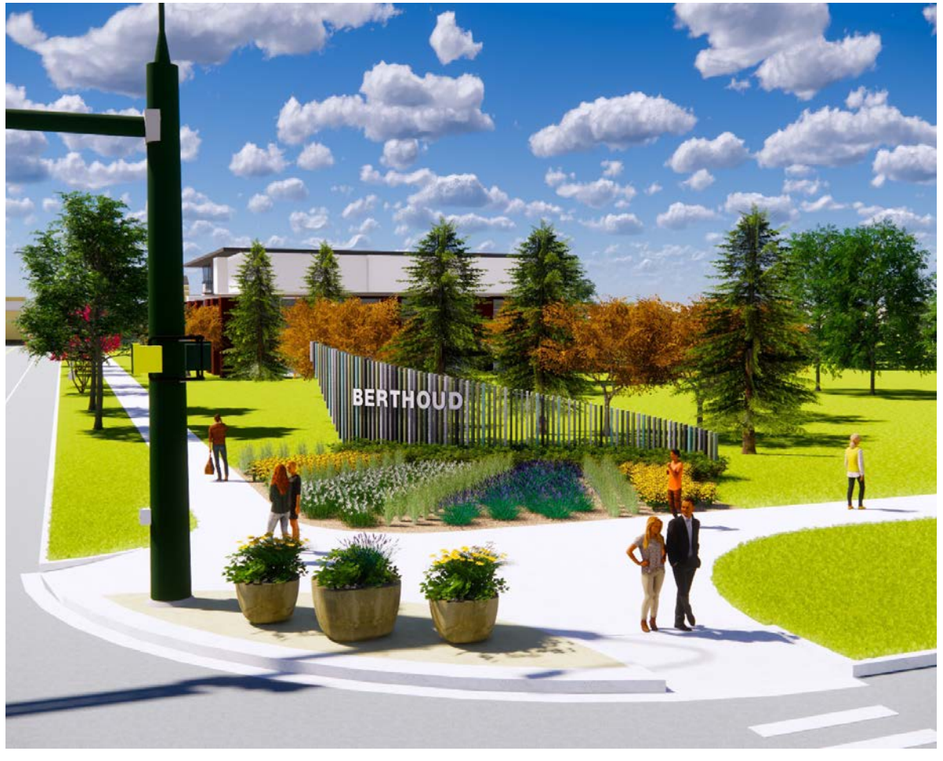
Color Group Option 1



Color Group Option 2



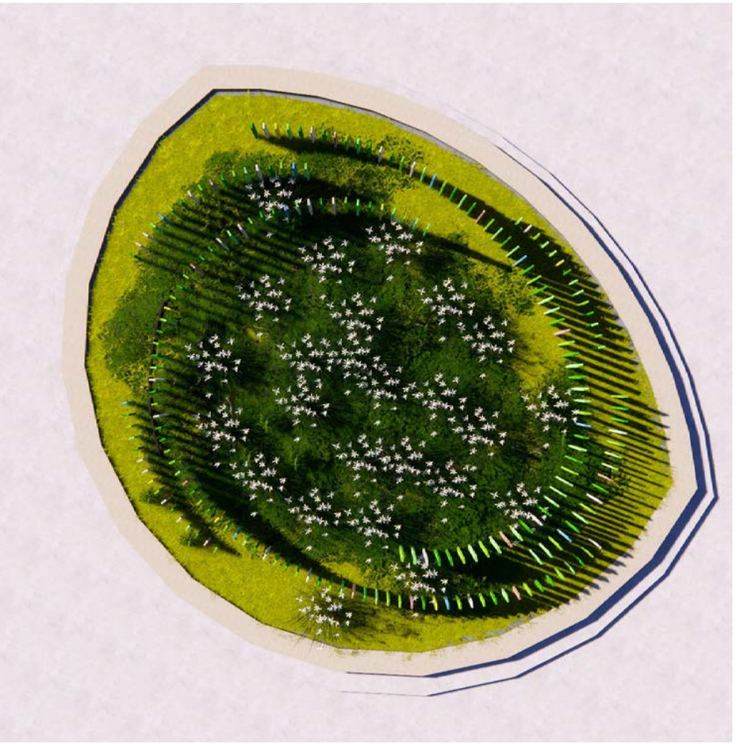




Corner Concept

With Color Group Option 1







Roundabout Concept

With Color Group Option 2

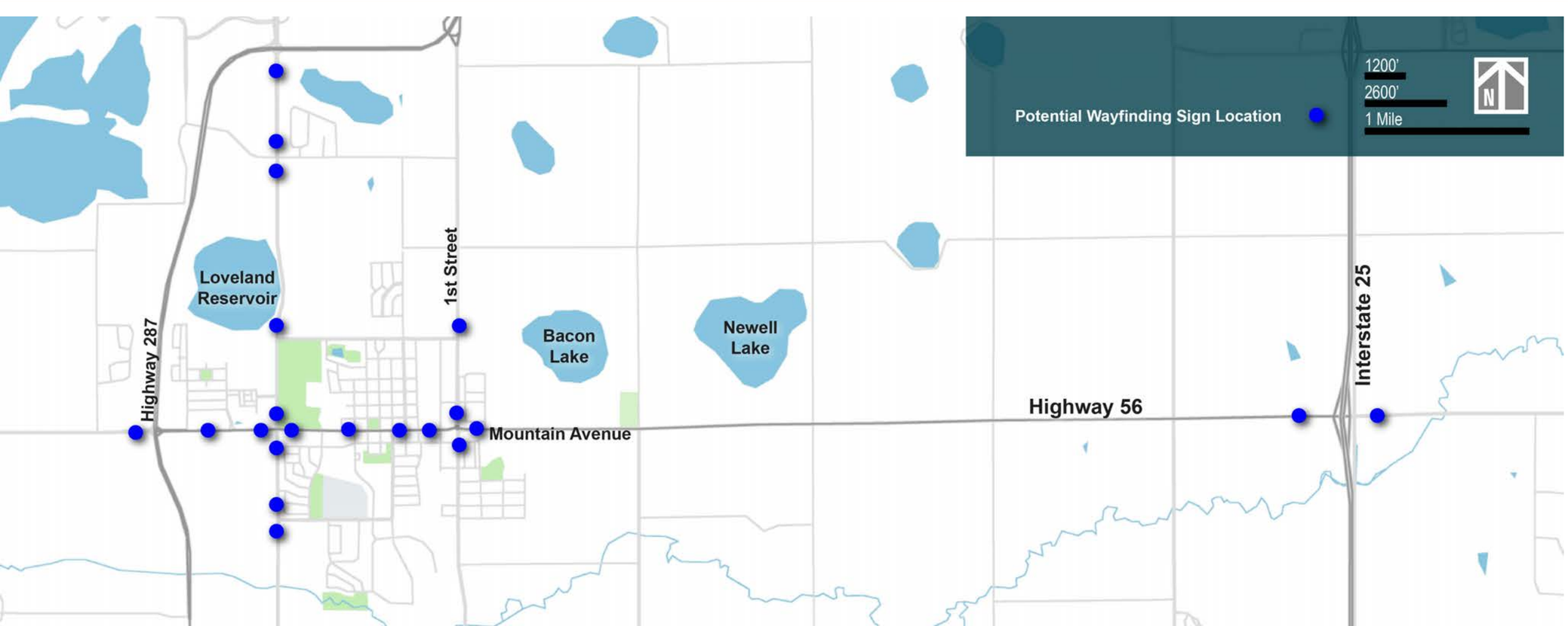




Local Destination

It's impossible to point out every destination within the Town. The intent is to point out the biggest destinations and attractions, such as: The Historic Downtown District, public parks, recreation facilities, public schools, museums, trailheads, golf courses, and other significant destinations. The list of destinations will grow and change as the Town evolves. The map to the left highlights several existing destinations and attractions that could be highlighted on the Town's wayfinding signs.

Private companies are not typically highlighted on wayfinding signs however exceptions can be made for businesses that attract a large number of tourists and visitors. Company logos and/or fonts cannot be used on wayfinding signs.



Wayfinding Opportunities

Wayfinding signs assist people in orienting themselves and highlight what is special about the Town, and they encourage residents and visitors to explore and discover.

Wayfinding signs are intended to be used for local attractions and destinations located outside of the driver's viewshed. The map to the left identifies potential wayfinding sign locations.

Wayfinding should be placed 150 to 200 feet "upstream" of the intersection to allow enough time for drivers to make decisions and necessary maneuvers prior to the turn.

Information included on wayfinding signs should be limited to 4 or 5 destinations.



Wayfinding Concept

The design of wayfinding signs should be consistent, distinct, and eye catching so they standout. Wayfinding signs are intended for motorists, bicyclists and pedestrians.

Signs must be legible from a long distance, and they must be tall enough to be seen from the street when a car, passenger truck or van is parked next to them. Sign blades should not extend beyond the vertical plane of the adjacent curb.

This concept is simple in form, sleek, and easy to fabricate. The sign blades are sandwiched between two vertical steel angles with elegantly arced edges. This concept is inspired by the Town's desire to be progressive.



Park Signage

A potential new signage opportunity are park signs. Using the same colors and materials as the town gateway signs, these signs, markedly smaller in scale, could be a unifying design element throughout the town. Like the gateway signs, they are simple but noticeable, quirky and easy to fabricate.





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Private Signage

Signage for private developments should become part of the visual composition of the streetscape, not a dominant feature. The following criteria are designed with this in mind.

Signage Criteria for Private Development

See table to the right for the criteria for private signage in each character district.

Description	Berthoud West	Residential Conversion	Downtown Commercial	Berthoud East	Agriculture	New Berthoud
Maximum size of a single sign	100 SF	35 SF	60 SF	100 SF max	100 SF	135 SF
Freestanding Pole Signs	Prohibited	Prohibited	Prohibited	Prohibited	Prohibited	Prohibited
Freestanding Monument Signs	10 feet or less in height, sign area is 135 SF max., area of sign base may not be greater than 50% of the sign area	6 feet or less in height, 32 SF max., area of sign base may not be greater than 50% of the sign area	Prohibited	10 feet or less in height, sign area is 135 SF max., area of sign base may not be greater than 50% of the sign area	10 feet or less in height, sign area is 135 SF max., area of sign base may not be greater than 50% of the sign area	12 feet or less in height, sign area is 165 SF max., area of sign base may not be greater than 50% of the sign area
Wall Signs (max per building face)	120 SF max	35 SF max	80 SF max	120 SF max	100 SF max	165 SF max
Canopy Signs	38 SF max, 18 inch max height	Prohibited	Prohibited	38 SF max, 18 inch max height	38 SF max, 18 inch max height	38 SF max, 18 inch max height
Projecting Signs	Allowable, per sign code	Allowable, per sign code	Allowable, per sign code	Allowable, per sign code	Allowable, per sign code	Allowable, per sign code
Awning Signs	Allowable, per sign code	Allowable, per sign code	Allowable, per sign code	Allowable, per sign code	Allowable, per sign code	Allowable, per sign code
Window Signs	Allowable, per sign code	Allowable, per sign code	Allowable, per sign code	Allowable, per sign code	Allowable, per sign code	Allowable, per sign code
Sidewalk A Frame Board Signs	Prohibited	Prohibited	Allowable, per sign code	Prohibited	Prohibited	Prohibited
Billboard Signs	Prohibited	Prohibited	Prohibited	Prohibited	Prohibited	Prohibited
Electronic Signs	Per sign code	Prohibited	Prohibited	Per sign code	Per sign code	Per sign code
Off-Premise Signs	Prohibited	Prohibited	Prohibited, except sandwhich board signs	Prohibited	Prohibited	Prohibited
Sign and awning illumination	Internal or External illumination is allowed with the following stipulations: **Internal Illumination:** letters and logo(s) may be internally illuminated, surrounding sign panel and supporting strcuture may not be illuminated. Awnings may not be internally illuminated **External Illumination:** entire sign and support structure may be illuminated with cut-off style fixtures. Awnings may be externally illuminated.	Internal or External illumination is allowed with the following stipulations: **Internal Illumination:** letters and logo(s) may be internally illuminated, surrounding sign panel and supporting strcuture may not be illuminated. Awnings may not be internally illuminated **External Illumination:** entire sign and support structure may be illuminated with cut-off style fixtures. Awnings may be externally illuminated.	External illumination only.	Internal or External illumination is allowed with the following stipulations: **Internal Illumination:** letters and logo(s) may be internally illuminated, surrounding sign panel and supporting strcuture may not be illuminated. Awnings may not be internally illuminated **External Illumination:** entire sign and support structure may be illuminated with cut-off style fixtures. Awnings may be externally illuminated.	Internal or External illumination is allowed with the following stipulations: **Internal Illumination:** letters and logo(s) may be internally illuminated, surrounding sign panel and supporting strcuture may not be illuminated. Awnings may not be internally illuminated **External Illumination:** entire sign and support structure may be illuminated with cut-off style fixtures. Awnings may be externally illuminated.	Internal or External illumination is allowed with the following stipulations: **Internal Illumination:** letters and logo(s) may be internally illuminated, surrounding sign panel and supporting strcuture may not be illuminated. Awnings may not be internally illuminated **External Illumination:** entire sign and support structure may be illuminated with cut-off style fixtures. Awnings may be externally illuminated.
Sign Setbacks from Mountain Ave/ Highway 56	5 feet min	5 feet min	Zero feet min, except sandwhich board signs, which can be placed on corners in Mountain Ave right of way between 2nd and 5th Streets	5 feet min.	10 feet min.	10 feet min.

Notes:

1. Corporate colors and other colors used behind or around a sign to differentiate the it from the building façade shall be included in the sign area.

Ground Mounted Freestanding Signs

This





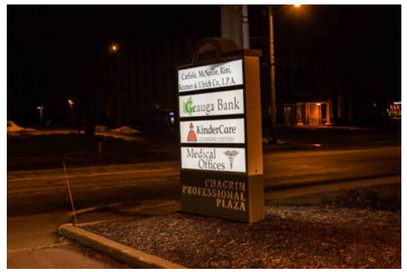








Not This













Awning Signs

This













Not This











Canopy Sign

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Not This









Projecting Signs

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Window Sign

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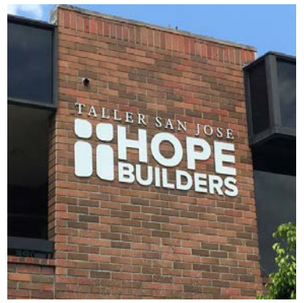
Wall Signs

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Not This









Appendix

Mountain Avenue Development Criteria by Character District

Description	Berthoud West	Residential Conversion	Downtown Commercial	Berthoud East	Agriculture	New Berthoud
Density and Lot Coverage	Per Underlying Zoning	Per Underlying Zoning	Per Underlying Zoning	Per Underlying Zoning	Per Underlying Zoning	Per Underlying Zoning
Building Height[5]	**Maximum:** 3 Stories (40 feet max)	**Maximum:** 3 Stories (40 feet max), **Minimum:** 2 Stories (20 feet min)	**Maximum:** 3 Stories (40 feet max), **Minimum:** 2 Stories (20 feet min)	**Maximum:** 3 Stories (40 feet max)	**Maximum:** 2 Stories (35 feet max)	**Maximum:** 3 Stories (40 feet max)
Minimum Lot Width	Per Underlying Zoning	Per Underlying Zoning	Per Underlying Zoning	Per Underlying Zoning	Per Underlying Zoning	Per Underlying Zoning
Building Orientation	Parallel to Front lot line	Parallel to Front lot line	Parallel to Front lot line	Parallel to Front lot line	Parallel to Front lot line	Parallel to Front lot line
Building Setbacks						
Mountain Ave / Highway 56 [6,7]	14 ft. min., 20 ft. max.	10 ft. min, 20' max	0 ft. min., 10 ft. max.[1]	30 ft. min	80 ft. min.	80 ft min.
Secondary or side street	20 ft. min[8]	10 ft min, 15 ft. max	0 ft. min., 10 ft. max.[1]	20 ft. min	20 ft. min	20 ft. min
Side yard (3 Stories)	10 ft. min.	10' ft. min.	0 ft.	Per Underlying Zoning	NA	Per Underlying Zoning
Side yard (2 Stories)	Per Underlying Zoning	5 ft. min.	0 ft.	Per Underlying Zoning	Per Underlying Zoning	Per Underlying Zoning
Side yard (1 Story)	Per Underlying Zoning	5 ft. min.	0 ft.	Per Underlying Zoning	Per Underlying Zoning	Per Underlying Zoning
Rear	Per Underlying Zoning	Per Underlying Zoning	Per Underlying Zoning	Per Underlying Zoning	Per Underlying Zoning	Per Underlying Zoning
Rear Alley	Per Underlying Zoning	Per Underlying Zoning	Per Underlying Zoning	Per Underlying Zoning	Per Underlying Zoning	Per Underlying Zoning
Off-Street Parking and Driveway Setbacks						
Mountain Ave / Highway 56 [9]	20 ft min. or 5 ft greater than building setback, whichever is greater	behind building, accessed from alley where possible	behind building, not accessed from Moutain Ave	35 ft. min., or 5 ft greater than proposed building setback, whichever is greater	80 ft. min.	80 ft. min.
Secondary or side street	20 ft. min.	5 ft. min.	5 ft. min	20 ft. min.		
Side yard	5 ft. min. 0 ft.if shared	0 ft. min	0 ft. min	5 ft. min, 0 ft. if shared	5 ft. min, 0 ft. if shared	5 ft. min, 0 ft. if shared
Rear	5 ft. min. 0 ft.if shared	0 ft. min	0 ft. min	5 ft. min, 0 ft. if shared	5 ft. min, 0 ft. if shared	5 ft. min, 0 ft. if shared
Max parking and driveway frontage [4]	40% lot frontage	0%	0%	40% lot frontage	40% lot frontage	40% lot frontage
Mountain Ave ROW Encroachments						
Outdoor dining areas and display areas	0 ft.	8 ft. max.[2]	8 ft. max.[2]	0 ft.	0 ft.	0 ft.
Awnings	0 ft.	6 ft. max	6 ft. max	0 ft.	0 ft.	0 ft.
Balconies	0 ft.	4 ft. max[3]	4 ft. max.[3]	0 ft.	0 ft.	0 ft.
Bay windows and building projections	0 ft.	2 ft. max.	2 ft. max.	0 ft.	0 ft.	0 ft.
Building eaves	0 ft.	2 ft. max.	2 ft. max.	0 ft.	0 ft.	0 ft.
Patio cover roof	0 ft.	2 ft. max.	2 ft. max.	2 ft. max.	0 ft.	0 ft.

Notes:

[1] The ground floor front façade may be recessed/setback to accommodate outdoor dining and/or outdoor display areas. Where these features are not intended, facades shall have a 0 foot front setback.

[2] A six foot minimum unobstructed clear zone shall be provided within ROW around outdoor dining areas for pedestrian circulation

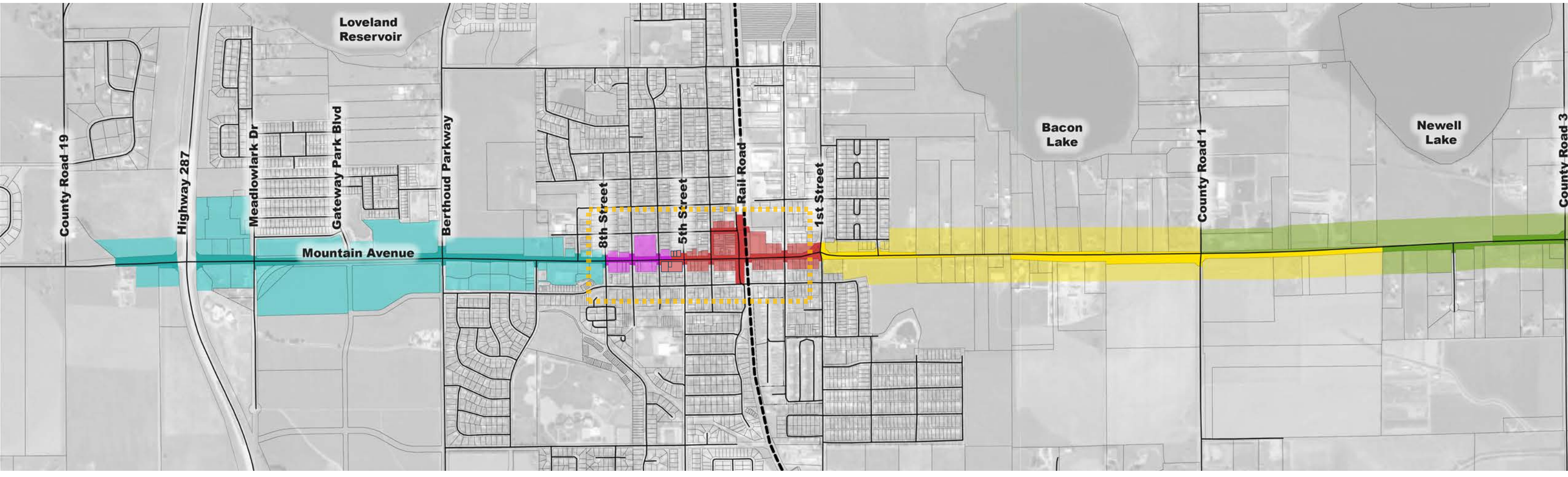
[3] Balconies, bay windows and other building projections extending in to the public right-of-way shall provide 10 feet min. vertical clearance above the sidewalk elevation or finish grade.

[4] Off-street parking areas and driveways fronting Mountain Ave, Hwy 56 and/or secondary/side streets shall be screened from view from the public right of way. Screening shall be 3' min in height and shall be accomplished with berms, low walls, planting, etc. Within the Downtown Commercial District and the Residential Conversion District screening shall be accomplished with walls and/or decorative metal fences having 75% min opacity. Wall materials shall match materials used on the associated buliding. Unless approved otherwise, wood fences are not allowed along Mountain Ave in the Downtown Commercial District

[5] Small tower elements and roof forms/parapet walls associated with primary buliding entries may exceed the maximum building height by 15%.

[6] Permanent features such as steps, ramps, landings, and uncovered porches shall not extend more than 40% into required setback.

Areas influenced by this Corridor Plan by Character District




County Road 5
County Road 7
Interstate 25
County Road 11
Highway 56
Little Thompson River
Private
Right of Way
Berthoud West
Residential Conversion
Downtown Commercial
Berthoud East
Agriculture
New Berthoud



Mountain Avenue Corridor
Design and Signage Plan

TOWN OF BERTHOUD, COLORADO

NOTICE OF PUBLIC HEARING
Amendments to the Berthoud Development Code, the Mountain Avenue Overlay District Guidelines and the Design Guidelines

PUBLIC NOTICE IS HEREBY GIVEN of public hearings before the Planning Commission on October 9, 2025 at 6 p.m. and the Town Board on both October 28, 2025 and November 10, 2025 at 6:30 p.m. All public hearings will be to consider repeal and replacement of the Berthoud Land Use Code (Chapter 30 of the Berthoud Municipal Code), and amendments to the Mountain Avenue Overlay District Guidelines and the Design Guidelines. The public hearings will be held at Town Hall 807 Mountain Avenue in Berthoud 80513.

Given and posted on this ____ day of September, 2025 and this _____ day of October, 2025.

Published: Loveland Reporter Herald September____, 2025 - _____